



UNITED STATES
PATENT AND
TRADEMARK OFFICE



*Performance and Accountability Report
for Fiscal Year 2004*

FINANCIAL HIGHLIGHTS

(Dollars In Thousands)	% Change 2004 over 2003	September 30, 2004	September 30, 2003
Fund Balance with Treasury	15.2%	\$ 1,135,268	\$ 985,586
Property and Equipment, Net	17.0%	137,303	117,365
Other Assets	(49.1)%	<u>24,741</u>	<u>48,575</u>
Total Assets	12.7%	<u><u>\$ 1,297,312</u></u>	<u><u>\$ 1,151,526</u></u>
Deferred Revenue	15.0%	\$ 579,596	\$ 504,193
Accounts Payable	(3.5)%	77,287	80,124
Accrued Payroll, Benefits, and Leave	10.5%	83,408	75,453
Other Liabilities	(0.7)%	<u>87,970</u>	<u>88,579</u>
Total Liabilities	10.7%	<u>\$ 828,261</u>	<u>\$ 748,349</u>
Net Position	16.3%	<u>469,051</u>	<u>403,177</u>
Total Liabilities & Net Position Program	12.7%	<u><u>\$ 1,297,312</u></u>	<u><u>\$ 1,151,526</u></u>
Total Program Cost	6.9%	\$ 1,289,181	\$ 1,206,073
Total Earned Revenue	6.6%	<u>(1,239,023)</u>	<u>(1,162,243)</u>
Net Cost from Operations	14.4%	<u><u>\$ 50,158</u></u>	<u><u>\$ 43,830</u></u>
Budgetary Resources Available for Spending	3.5%	\$ 1,235,201	\$ 1,193,005
Total Collections, Net	53.5%	<u><u>\$ 75,314</u></u>	<u><u>\$ 49,077</u></u>
Federal Personnel	1.4%	6,816	6,723
Disbursements by Electronic Funds Transfer (EFT)	—	99%	99%
On-Time Payments to Vendors	1.0%	98%	97%

PERFORMANCE HIGHLIGHTS

Performance Measures	Target	Actual	Met/Not met
Patent first action pendency (months)	20.2	20.2	Met
Patent total pendency (months)	29.8	27.6	Met
Trademark first action pendency (months)	5.4	6.6	Not met
Trademark total pendency (months)	21.6	19.5	Met
Applications managed electronically: Patents	70%	88%	Met
Applications managed electronically: Trademarks	80%	98%	Met
IP Technical Activities Completed	NEW		

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WEB ADDRESS FOR THE USPTO PERFORMANCE AND ACCOUNTABILITY REPORT

<http://www.uspto.gov/web/offices/com/annual/2004/index.html>



**MESSAGE FROM THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

Fiscal year 2004 was a year of great challenges for the United States Patent and Trademark Office and a year of important successes. I have been honored and privileged to lead this agency during a time of historic transformation. During the 12 months covered by this report, we began the move to our new state-of-the-art headquarters in Alexandria, Virginia. Over two thousand employees and our public search facility were relocated in a remarkably smooth operation, with minimal disruption for our workforce and customers. When our move is completed in March 2005, over 8,000 employees and contractors will be housed in the Alexandria facility.

During the past year we have begun to realize the goals of the *21st Century Strategic Plan*. The plan was developed under the leadership of my predecessor, James E. Rogan, and is based on President George W. Bush's management agenda. The plan laid out a set of commitments, the most important of which was to make quality our number one priority. The USPTO also pledged to make patent processing fully electronic by 2004, to protect the United States' intellectual property system internationally, and to reaffirm the agency's credibility with Congress and the executive branch. I am pleased to report that we have delivered on all of those commitments.

QUALITY

During the past year, we have implemented a number of quality initiatives focused on getting the right people and ensuring that they stay current with practice, procedures, and case law so they will issue high quality patents and better serve our customers. These significant quality initiatives include a requirement that examiners pass a certification exam to demonstrate their knowledge of practice and procedures prior to promotion to an independent level. Also, primary examiners undergo "recertification" once every three years with increased work product review and mandatory continuing education classes. We have also instituted quizzes following training to ensure mastery of the principles taught. Additionally, before candidates for examiner positions are appointed, we assess their communication skills.

As the result of another quality initiative, we now review more work, and review it throughout prosecution. From these in-process reviews we have been gathering much useful information that we are providing as feedback to the examiners. Also as a part of this feedback loop we are utilizing the identified trends in developing focused training for examiners. Finally, in another measure designed to enhance quality, we have expanded the "second-pair-of-eyes" review in our technology centers.

We have taken these steps to increase quality because we understand that quality enhances certainty and that quality is the most important element of the system for our customers. We will continue to build on the quality initiatives implemented this year. They will help us better identify and solve quality concerns and enhance the evaluation of our processes.

ELECTRONIC PROCESSING

The electronic processing of patent applications is now a reality. The Image File Wrapper (IFW) was fully implemented, and private and public Patent Application Information Retrieval systems (PAIR) were enhanced with the inclusion of IFW data. With the click of a mouse, the private PAIR system allows applicants access to the entire file history of their applications, including the images of every paper of record if the application is in the IFW database. Additionally, the public PAIR system allows anyone, anywhere in the world, access to the entire file history (except for non-patent literature) and application images, if available in IFW, of an application not covered by confidentiality laws.

The Trademark Electronic Application System (TEAS), which allows trademark applications to be filed electronically, has continued to enjoy great success. This year, 73% of trademark applications were filed electronically.

The patent examination process has now been entirely automated with the implementation of the IFW. More than 6,000 USPTO employees have been trained to use the IFW system, which not only helps us do our job, but also helps our customers by providing transparency to the process.

In 2004, the USPTO received the prestigious "Pioneer" award from the Government Solutions Center, in recognition of the significant implementation of our IFW system. The Pioneer award recognizes innovative best practices in delivery of essential e-Government services to citizens, businesses, and other public sector organizations.

The USPTO's IFW initiative was also recognized when our agency received the Government Computer News award, a distinct honor for the USPTO. The USPTO was selected from 116 nominations by a panel of editors from Government Computer News and Washington Technology. Agencies are recognized for their technology innovations, support of program or policy requirements, and improvement of service delivery.

The successful implementation in 2004 of key e-Government initiatives of the 21st Century Strategic Plan will clearly be noted as a major milestone in the transformation of an operation based on paper processing to a more efficient, customer friendly, electronic processing system.

MODERNIZATION

Another important milestone occurred this year when President Bush proposed a budget that provides the USPTO with access to all of the fees collected. This action by the President is the most recent expression of the Administration's support for the USPTO and America's intellectual property system. The Administration's support for full funding results from the realization that the agency cannot improve quality and reduce pendency without appropriate funding. The proposed modernization legislation currently before Congress is key to this effort. The bill moved through the House last fiscal year with 379 ayes and only 28 dissenting votes, and was approved unanimously by the Senate Judiciary Committee. We believe this Congressional support clearly reflects the fact that we have a credible plan for improving our operations. Thus, we are hopeful that the modernization legislation will be enacted soon.

INTERNATIONAL

On the international front, we have faced many challenges. Regrettably, there is growing anti-IP sentiment in the world. This sentiment has been reflected by a number of member states at meetings conducted by the World Intellectual Property Organization (WIPO). We will continue to work with other countries to build consensus and protect America's IP community. We have had successes this past year including defeating efforts to increase Patent Cooperation Treaty (PCT) fees. In the process we will save U.S. filers more than \$6 million in calendar year 2005.

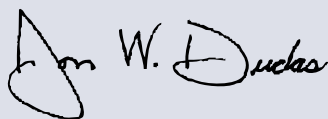
Piracy and counterfeiting continued as major concerns during the past year and we have worked closely with the State Department, the Office of the United States Trade Representative, our colleagues at the Department of Commerce and others on these vital issues. We have continued enforcement-training activities for government officials from a wide range of countries around the world. In addition, the USPTO appointed an attorney-advisor in our Office of Enforcement to be an intellectual property attaché to the U.S. Embassy in China. This is the first time the USPTO has placed an official overseas for the purpose of improving intellectual property protection in a specific country. We believe this assignment will advance the Administration's work in the region, particularly in addressing the widespread counterfeiting and piracy that cost U.S. businesses billions of dollars in lost revenue and tens of thousands of U.S. jobs.

CONCLUSION

I am often asked what is my vision for the United States Patent and Trademark Office. My answer is simple. I want to be the head of a constantly improving agency that builds on the successes we have had. I not only want the USPTO to be the best intellectual-property office in the world, and it is, but to be the clear leader and trendsetter in every aspect of intellectual property protection. While tremendous challenges lie ahead, the successes we have had this past year keep us on a path toward the realization of that vision.

This *Performance and Accountability Report* summarizes the USPTO's achievements and challenges for fiscal year 2004. I am pleased to certify our agency's systems of management control, taken as a whole, comply with Section 2 of the Federal Managers' Financial Integrity Act (FMFIA) of 1982. Our agency is also in substantial compliance with applicable Federal accounting standards and the United States General Ledger at the transaction level and with Federal financial system requirements. Accordingly, our agency fully complies with Section 4 of the FMFIA, with no material nonconformances. In addition, we are confident that the USPTO's financial and performance data is reliable, accurate, and consistent, as we improve our ability to measure progress toward performance objectives.

For the 12th consecutive year, we received an unqualified audit opinion on our annual financial statements. In addition, the independent auditors' report did not identify any material weaknesses, reportable conditions, or instances of noncompliance.



Jon W. Dudas

*Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office*

November 8, 2004

MESSAGE FROM THE CHIEF FINANCIAL OFFICER

I am pleased to present the United States Patent and Trademark Office's fiscal year 2004 audited financial statements, which are an integral component of our PAR. This annual report to the American people highlights our fiscal stewardship, our significant accomplishments, and the challenges we face as we strive to transform this agency and to keep pace with our ever-increasing workloads.

While the USPTO as a whole is changing to adapt to the 21st century, we have maintained our focus on accountability and our steadfast commitment to excellence in financial reporting. I am proud to report that the USPTO was awarded a second consecutive Association of Government Accountants Certificate of Excellence in Accountability Reporting for our fiscal year 2003 PAR. I am equally proud of receiving an unqualified opinion on the USPTO's financial statements for a 12th consecutive year.

This "clean" opinion continues to be issued together with no material weaknesses or reportable conditions in our internal control structure as reported by our independent auditors.

Having attained a routine, reliable process for preparing financial statements, I am committed to taking financial management at the USPTO to the next level. Our goal is to provide useful and timely information to reflect financial and program performance results compared to plans on a continuing basis. Our primary focus is to continue to improve data that will result in better decision-making, improve utilization of resources, and support the PMA for competitive sourcing, improved financial performance, budget and performance integration, expanded electronic government, and strategic management of human capital.

We are also improving our workspace as we relocate to our new corporate headquarters in Alexandria, Virginia. The first phase of this move was completed in February 2004, when 2,100 people were moved. The final move phase is in progress, and will be completed by the spring of 2005, with more than 8,000 USPTO employees and contractors working at the new location. Our move to an efficiently configured and consolidated USPTO campus will help us achieve our goals by providing, for example, state-of-the-art technology that will aid in delivering better quality, higher productivity, and more responsive service to our customers.

This past year we overcame a deficiency that the Inspector General (IG) had identified that information technology (IT) security was a critical management and performance challenge facing the USPTO, because all of our critical systems had not been certified and accredited. I am pleased to say that we have now completed our efforts for the certification and accreditation of all mission-critical and classified information systems, and the USPTO received unconditional (full) authority to operate these systems in the current year.

During fiscal year 2004, the USPTO enhanced its Management Control Review Program by initiating an annual management control certification process that will require accountable managers in each major process area to certify that controls are in place, were monitored on a regular basis, and operated effectively for the fiscal year. The Management Control Review Program also consists of in-depth control reviews performed on a rotating basis such that each major process area is reviewed at least once in a four-year period. The reviews completed this past year concluded that there were no material weaknesses in internal controls and the controls were found to be consistent with identified best practices in each area.



Results of these management control reviews, coupled with improved operating efficiencies, external audits, and other evaluations, allow me to provide reasonable assurance that the USPTO's systems of internal accounting and administrative control fully comply with the requirements of the FMFIA of 1982.

In fiscal year 2005, the Administration, the U.S. House of Representatives and the U.S. Senate have shown support for providing full access to our projected fee income. Full access to our fees in fiscal year 2005 will allow the USPTO to fully fund the *21st Century Strategic Plan* initiatives to transform the USPTO into a quality-driven, highly productive, and efficient organization that will promote expansion of business opportunities, stimulate research and development, and expand U.S. business globally.

Ultimately, the success of the USPTO's efforts to reinvent and improve the agency relies heavily on our employees. Human capital is our key resource with the greatest impact on the quality of our products and services. Managing our human capital is a critical, ongoing strategic management challenge. In this regard, we will continue to develop, sustain, and deploy a highly competent USPTO workforce. This will be accomplished by monitoring our core human competencies in areas such as intellectual property examination and IT development and support, by recruiting the best available candidates for new and vacated positions, and by providing appropriate training to improve the skills integral to the USPTO's success.

Let me conclude by stating that all of our efforts are focused on improving the quality of services that we provide to all of our customers. This commitment to customer service is the cornerstone of the USPTO, upon which the success of our growth and financial management is built.

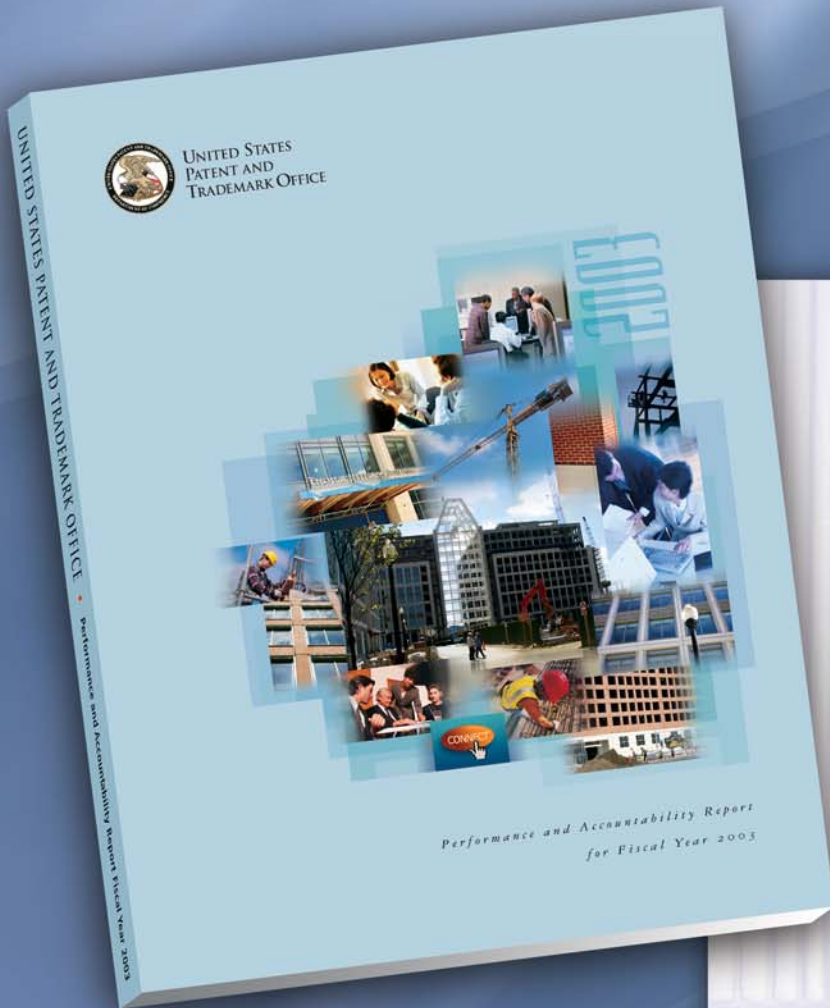


Jo-Anne Barnard

*Chief Financial Officer and
Chief Administrative Officer*

November 8, 2004

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Presented to the

*United States Patent
and Trademark Office*

In recognition of your outstanding efforts
in preparing the USPTO's
Performance and Accountability
Report for the fiscal
year ended **September 30, 2003.**

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Management's Discussion and Analysis



MISSION AND ORGANIZATION OF THE USPTO

USPTO VISION

The USPTO will lead the way in creating a quality-focused, highly productive, responsive organization supporting a market-driven Intellectual Property system for the 21st Century.

MISSION STATEMENT

The USPTO's mission is to ensure that the Intellectual Property system contributes to a strong global economy, encourages investment in innovation, and fosters entrepreneurial spirit. Intellectual Property is an invention or creation embodied in the form of a patent, trademark, trade secret, or copyright.

For over 200 years, the basic role of the USPTO has remained the same, that is to promote the progress of science and the useful arts by securing, for limited times to inventors, the exclusive rights to their respective discoveries (Article 1, Section 8 of the United States Constitution). American industry has flourished under this system of protection as new products have been invented, new uses for inventions have been discovered, and employment opportunities have been created for millions of Americans. Customers have been protected against confusion and deception in the marketplace and businesses have been given the enhanced protection of trademark rights and notices of the trademark rights claimed by others. Patents and trademarks have long protected American creativity and ingenuity. The first patent was issued in 1790 for a method of making potash fertilizer and the oldest active trademark was originally registered in 1884 for SAMSON, a design for "cords, lines, and ropes."



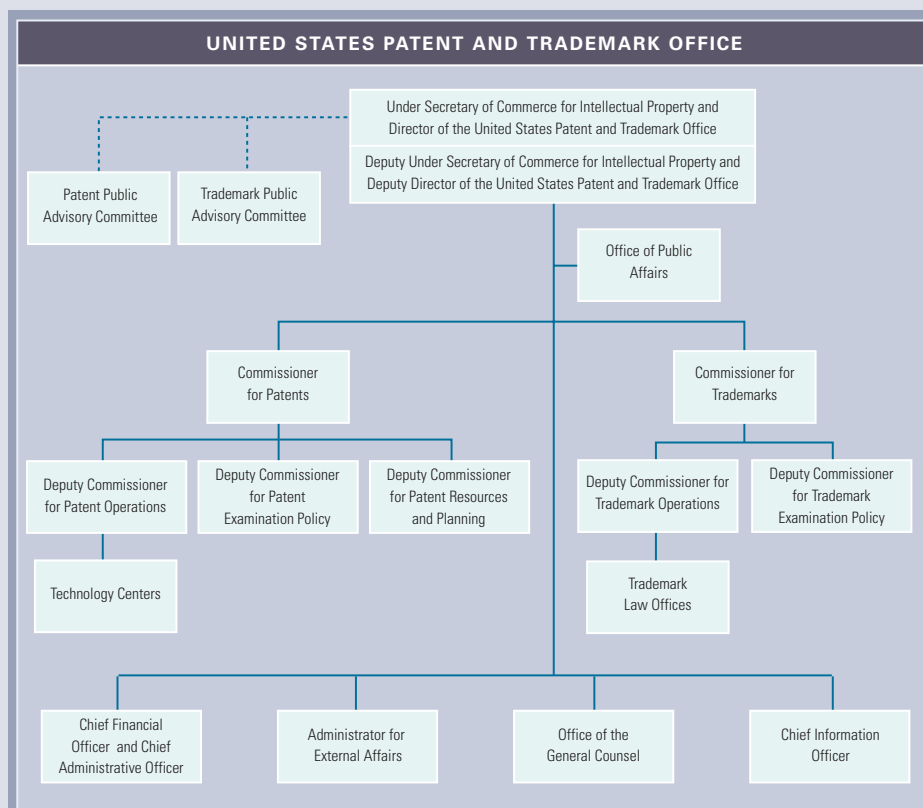
The strength and vitality of our economy depends directly on effective mechanisms that protect new ideas and investments in innovation and creativity. The continued demand for patents and trademarks underscores the ingenuity of American inventors and entrepreneurs. The USPTO is at the cutting edge of our nation’s technological progress and achievement.

The primary services provided by the USPTO are examining patent and trademark applications and disseminating patent and trademark information. Through issuing patents, we encourage technological advancement by providing incentives to invent, invest in, and disclose new technology. Through registering trademarks, we assist businesses in protecting their investments, promoting quality goods and services, and safeguarding consumers against confusion and deception in the marketplace. By disseminating both patent and trademark information, we promote a global understanding of intellectual property protection and facilitate the development and sharing of new technologies worldwide.

LOCATION, ORGANIZATIONAL STRUCTURE, AND WORKFORCE

The USPTO is an agency of the United States within the Department of Commerce. The office currently occupies over 1,200,000 square feet in 15 buildings in the Crystal City neighborhood of Arlington, Virginia. The office recently accepted 2,000,000 square feet in four buildings at its new facility in Alexandria, Virginia. In addition, the USPTO has two storage facilities in Springfield and Alexandria, Virginia and leased storage space in Boyers, Pennsylvania. The USPTO workforce is comprised of 6,816 federal employees, including 3,753 patent examiners and 286 trademark examining attorneys. In addition, we have approximately 3,600 contract employees.

The USPTO has evolved into a unique government agency. Since 1991—under the Omnibus Budget Reconciliation Act (OBRA) of 1990—the USPTO has operated in much the same way as a private business, providing valued products and services to our customers in exchange for fees that are used to fund our operations. The powers and duties of the USPTO are vested in an Under Secretary of Commerce for Intellectual Property and Director of the USPTO who consults with the Patent Public Advisory Committee and Trademark Public Advisory Committee. The USPTO has two major business lines – Patents and Trademarks – as shown in the following organization chart:



PERFORMANCE GOALS AND RESULTS

USPTO STRATEGIC PLAN

The Government Performance and Results Act (GPRA) requires that agencies plan and measure the performance of their programs. In carrying out GPRA, the USPTO prepares a Strategic Plan, an Annual Performance Plan, and an Annual Performance Report. The USPTO began fiscal year 2004 guided by the *21st Century Strategic Plan* that was most recently updated in February 2003 and covers the period through fiscal year 2008. While the mission, goals, and strategies have served us well, the environment in which the intellectual property system operates worldwide has changed dramatically. There are an estimated 14.8 million pending patent applications in the world's examination pipeline. Technology has become increasingly complex, and customer demands for higher quality products and services have escalated.

This dynamic, along with Congressional concerns about the USPTO's ability to continue to operate under a traditional business model, led to the development of the *21st Century Strategic Plan*. This *Strategic Plan* can be found on the USPTO website: <http://www.uspto.gov/web/offices/com/strat21/index.htm>. To deal with these concerns, the USPTO developed a response to the environmental challenges facing the USPTO and to address the issues raised by the Congress and our stakeholders. The *21st Century Strategic Plan* is a far-reaching and aggressive plan designed to transform the USPTO into an organization that is responsive to the global economy. After implementation of the plan, market forces will drive our business model and geography, time will be irrelevant when doing business with the USPTO, products and services will be tailored to customer needs, and examination will be our core expertise. The plan is centered around three long-term cross-cutting strategic themes:

- **Agility:** Address the 21st century economy by becoming a more agile organization—We will create a flexible organization and work processes that can handle the increasing expectations of our markets, the growing complexity and volume of our work, and the globalization that characterizes the 21st century economy. We will work, both bilaterally and multilaterally, with our partners to create a stronger, better-coordinated and more streamlined framework for protecting intellectual property around the world. We will transform the USPTO workplace by radically reducing labor-intensive paper processing.
- **Capability:** Enhance quality through workforce and process improvements—We will make patent and trademark quality our highest priority by emphasizing quality in every component of this *Strategic Plan*. Through the timely issuance of high-quality patent and trademark registrations, we will respond to market forces by promoting advances in technology, expanding business opportunities and creating jobs.
- **Productivity:** Accelerate processing times through focused examination—We will control patent and trademark pendency, reduce time to first office action, and recover our investments in people, processes and technology.

The USPTO has developed supporting performance goals and measures to implement our strategic themes. The three supporting performance goals tracked through 13 measures include:

- GOAL 1:** Improve the quality of patent products and services and optimize patent processing time.
- GOAL 2:** Improve the quality of trademark products and services and optimize trademark processing time.
- GOAL 3:** Create a more flexible organization through transitioning patent and trademark operations to an e-Government environment and participate in intellectual property development worldwide.

The *Agility* theme is linked to the third performance goal and incorporates ongoing initiatives in e-Government and collaboration with our intellectual property partners worldwide. As a first priority, the USPTO has made electronic end-to-end processing of both patents and trademarks the centerpiece of its business model by deploying critical automated information systems. In addition, the USPTO is currently working on ways to improve delivery schedules, reliability, performance, security and monitoring of the cost of all our automated information systems. Further, the USPTO is enhancing existing and establishing new alliances with our friends in other national and international intellectual property organizations to strengthen intellectual property rights (IPR) around the world.

The *Capability* theme crosses all performance goals, emphasizing the quality and process improvement elements within the USPTO, and permeating our activities and operations. Quality will be assured throughout the process by hiring the people who make the best patent and trademark examiners, certifying their knowledge and competencies throughout their careers at the USPTO, and focusing on quality throughout the examination of patent and trademark applications.

The *Productivity* theme is linked to performance goals 1 and 2 and addresses the planned longer-term reduction in patent and trademark pendency, as measured by the average first action pendency and the average total pendency.

In fiscal year 2004, the USPTO continued implementing goals and objectives put forth in the plan, to the extent they were consistent with Congressional intent and supported by our stakeholders and applicants. Following is a table indicating the resource obligations for the USPTO performance goals.

USPTO Resource Obligations by Performance Goal (Dollars in millions)		
Goal	FY 2004 Obligations	Full-Time Equivalent (FTE) Totals
Goal 1: Improve the quality of patent products and services and optimize patent processing time	\$ 1,059	5,832
Goal 2: Improve the quality of trademark products and services and optimize trademark processing time	112	693
Goal 3: Create a more flexible organization through transitioning patent and trademark operations to e-Government environment and advancing IP development worldwide	62	102
Totals	<u>\$ 1,233</u>	<u>6,627</u>



Under Secretary Dudas (seated center), Jo-Anne Barnard, Chief Financial Officer and Chief Administrative Officer (to his right), and Michelle Picard, Director, Office of Finance (far right) pose with members of the Annual Performance Review team. The team received the "Certificate of Excellence in Accountability Reporting Award," from the Association of Government Accountants for the USPTO Fiscal Year 2003 Performance and Accountability Report.

PERFORMANCE DATA VERIFICATION AND VALIDATION

In accordance with GPRA requirements, the USPTO is committed to making certain that performance information reported is reliable, accurate, and consistent. To ensure the highest quality data, the USPTO has developed a strategy to validate and verify the quality of the USPTO's performance information. The USPTO has undertaken the following:

Accountability – Responsibility for providing performance data lies in the Patent and Trademark organizations. The USPTO holds program managers accountable for ensuring procedures are in place regarding the accuracy of their data and that the performance measurement source is complete and reliable.

Quality Control – Automated systems and databases that collect, track, and store the performance indicators are monitored and maintained by the Patent and Trademark organizations, with systems support provided by the Chief Information Officer's organization. Each system, such as PALM or TRAM, incorporates internal program edits to control the accuracy of supporting data. The edits typically evaluate data for reasonableness, consistency, and accuracy. Cross-checks against other internal automated systems also provide assurances of data reasonableness and consistency. In addition to internal monitoring of each system, experts outside of the business units routinely monitor the data collection methodology. The Chief Financial Officer's organization is responsible for managing the agency's performance, providing direction and support on data collection methodology and analysis, ensuring that data quality checks are in place, and reporting performance management data. At the beginning of each fiscal year, and at various points throughout the reporting or measurement period, sampling techniques and sample counts are reviewed and adjusted to ensure data are statistically reliable for making inferences about the population as a whole. Data analyses are also conducted to assist the business units in interpreting the program data, such as the identification of statistically significant trends and underlying factors that may be impacting a specific performance indicator. For examination quality measures, the review programs themselves are assessed in terms of reviewer variability, data entry errors, and various potential biases.

Financial statement audit – During the fiscal year 2004 financial statement audit, various tests and reviews of the primary accounting system and internal controls were conducted as required by the Chief Financial Officers' Act. In their fiscal year 2004 report, the auditors reported no material weaknesses in internal controls or material compliance violations. The auditors issued an unqualified opinion on USPTO's fiscal year 2004 financial statements.

PERFORMANCE AUDITS AND INSPECTIONS

The Office of the Inspector General (OIG) also contributes to the USPTO's efforts to assure audit and evaluation coordination and coverage of USPTO goals. The OIG conducted the following types of audits and evaluations:

One performance audit and two inspections were completed in fiscal year 2004. In the first case, the OIG reviewed the USPTO's Office of Human Resources (OHR) (*USPTO Needs Strong Office of Human Resources Management Capable of Addressing Current and Future Challenges, BTD-16432-4-0001/June 2004*). The purpose of this performance audit was to identify any systemic weaknesses that might be fostering problems with the USPTO's human resources management. The results of the audit showed that the USPTO had taken significant steps to improve the operations of OHR. In addition, the report states that the USPTO is taking the necessary actions to ensure that the OHR identifies any skill gaps and provides a solid plan that each employee and his or her supervisor can use in scheduling training, developmental assignments, and self-development activities.

The purpose of the first inspection (*USPTO Should Reassess How Examiner Goals, Performance Appraisal Plans, and the Award System Stimulate and Reward Examiner Production, IPE-15722/September 2004*) was to determine whether USPTO's current means for enhancing production-patent examiner goals, awards, and performance appraisal plans reflect current efficiencies in work processes and improved technology. Several recommendations were reported, and the USPTO concurred with the recommendations. The Office will reassess its current examiners' goals, performance appraisal plans, and award system in terms of their effectiveness in achieving the objectives of the USPTO's *21st Century Strategic Plan*.

The second inspection (*USPTO's Move to Alexandria, Virginia, Is Ahead of Schedule, But Some Key Issues Need to Be Resolved, IPE-16268/September 2004*) evaluated USPTO's efforts thus far to monitor construction and execute the relocation of the agency to Alexandria, Virginia. The OIG inspection found that both the USPTO and the GSA are adequately managing the project and providing sufficient oversight of construction and lease costs. The USPTO concurred with the two OIG recommendations, agreeing to proceed toward finalizing an occupancy agreement with the GSA and submitting the required documentation for additional space to accommodate future staff growth.



Under Secretary Dudas speaks at the 9th Annual Independent Inventors Conference, in Concord, New Hampshire.

PATENT PERFORMANCE

The principal function of the Patent organization is the examination of an inventor's application for a patent. Patent examiners make a determination, as defined in the Patent statutes, of the patentability of the claimed subject matter in a patent application by comparing the claimed subject matter to a large body of technological information to determine whether the claimed invention is new, useful, and non-obvious to someone knowledgeable in that subject matter. In addition to the examination and the preparation of correspondence during the examination of the application, examiners are also responsible for preparing examiner's answers on applications appealed to the Board of Patent Appeals and Interferences (BPAI), preparing interference proceedings to determine priority of invention, and preparing Search Reports and International Preliminary Examination Reports in PCT applications.

At the front end of the examination process, in fiscal year 2004, the Patent organization received 353,342¹ Utility, Plant, and Reissue (UPR) patent applications, 23,468¹ Design applications, as well as 45,396¹ PCT applications. This represents a 6 percent increase over fiscal year 2003 UPR filings; a 6.8 percent increase over fiscal year 2003 design applications; and a 5.6 percent increase over fiscal year 2003 PCT applications. The Office of Initial Patent Examination performs an initial administrative review of the newly filed applications. Additionally, 102,278¹ provisional applications were received.¹

At the back end of the process, 170,637 UPR and 16,533 PCT patents were granted in fiscal year 2004, and 248,561 pending applications were published, as provided for in the American Inventors Protection Act of 1999. The Office of Patent Publications performs post-examination processing of allowed applications and disseminates published applications and issued patents to the public.¹

Additional offices within the Patent organization perform various activities to support the patent process. The Office of Patent Quality Assurance performs a quality review function, comprising reviews of a random sample of both in-process and allowed applications. The Office of Patent Training coordinates the development of curriculums and deployment of training throughout the Patent organization. PCT Operations and the PCT Legal Administration Office administer the processing of international patent applications. The Search and Information Resources Administration supports examination processes by managing all Patent IT activities, implementing and maintaining classification schemes for organizing and retrieving information contained in patents and other documents in the search files, and acquiring, maintaining, and providing access to scientific and technical literature.

In fiscal year 2004, the Patent organization achieved its e-Government *21st Century Strategic Plan* objectives and made significant strides in addressing its quality initiatives. All patent examiners, technical support staff, and others throughout the Patent organization are working from an image-based system.

Quality is the most important component of the *21st Century Strategic Plan* and the Patent organization has implemented several quality initiatives, including an enhanced Quality Assurance Program that includes end product reviews, in-process reviews, and enhanced "second pair of eyes" reviews. The feedback from these reviews is used to identify and develop training and other quality enhancements. Additionally, to ensure that our primary patent examiners maintain the knowledge, skills and abilities (KSAs) necessary to perform a high quality examination, the USPTO implemented a recertification program requiring that primary examiners be recertified once every three years. A certification testing program was also implemented for junior examiners to ensure that they have the required KSAs prior to promotion to the level where they are given legal and negotiation authority. First-line supervisors were trained to increase the effectiveness of work product reviews and coaching skills. Additionally, the Patent organization established a quality review process for review of the work of the technical support staff.

¹ All data reported in these paragraphs are preliminary

Under Secretary Dudas demonstrates the Public PAIR system at a ceremony celebrating IFW, and access to IFW through public PAIR.



The USPTO successfully completed deployment of the patent IFW system in August, 2004, whereby 88 percent of patent applications are electronically processed, exceeding the fiscal year 2004 goal to electronically manage 70 percent of patent applications undergoing examination. All incoming and outgoing paper documents are captured electronically in the system and the last remaining pending paper applications will be scanned into the system by the end of the first quarter of fiscal year 2005, with the electronic version of an application now considered the official file. In addition to IFW, the Patent organization no longer mails paper U.S. references to applicants, instead making the information available to applicants via the Internet. Additionally, for the first time, anyone with Internet access anywhere in the world can now use USPTO's website (www.uspto.gov) to track the status of a public patent application as it moves from pre-grant publication to final disposition and to review documents in the official application file, including all decisions made by patent examiners and their reasons for making them. The system, known as PAIR, offers the public an advanced electronic portal for PDF viewing, downloading and printing an array of information and documents for patent applications not covered by confidentiality laws. Public PAIR also offers a quick-click feature for ordering certified copies of patent applications and application files.

In furtherance of our goal to increase the number of applications filed electronically, in fiscal year 2004 the Patent organization conducted the first e-Filing forum. This event established a user's group of customers who will provide input on how our e-Filing system can better meet their needs.

With the implementation of the *21st Century Strategic Plan*, the USPTO will reduce patent pendency and substantially cut the size of our work backlog. Ultimately, this will be accomplished through a radical redesign of the entire patent search and examination system based upon multi-examination tracks, competitively sourcing the search function, hiring sufficient numbers of new patent examiners, and variable, incentive-driven fees. In fiscal year 2004, we hired 443 new UPR examiners and 15 design patent examiners for a net increase of 118 in the size of the examining corps.

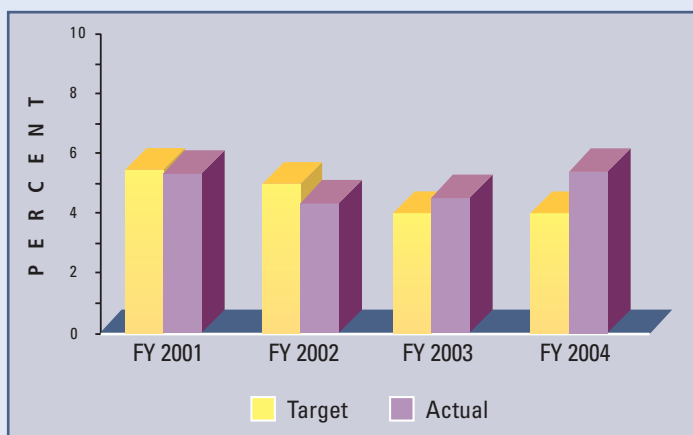
Specific performance results related to the Patent organization goals and measures are as follows:

PERFORMANCE GOAL: Improve the quality of patent products and services and optimize patent processing time

Under the *21st Century Strategic Plan*, the Patent organization will improve the quality of our products and services using in-depth reviews of work in progress and enhanced end-process reviews to provide feedback to examiners on areas for improvement, targeted training, and safeguards to ensure competencies. The following performance measure has been established to reflect the USPTO's success and progress in meeting the Strategic Plan goal supporting the quality theme.

MEASURE: Patent Allowance Error Rate

QUALITY OF PATENTS



DATA VALIDATION AND VERIFICATION

Data source: Office of Patent Quality Review Report.
Frequency: Daily input, monthly reporting.
Data storage: Automated systems, reports.
Verification: Manual reports and analysis.
Data Limitations: None.

	FY 2001	FY 2002	FY 2003	FY 2004
Target	5.5%	5.0%	4.0%	4.0%
Actual	5.4%	4.2%	4.4%	5.3% not met

Discussion: Target not met. While the USPTO fell short of its FY 2004 quality target, much of this is due to the intense focus on quality and the significant implementation of all the quality initiatives. The implemented quality initiatives are expected to produce long-term quality improvements as the knowledge, skills, and abilities of our employees are upgraded, helping us to achieve our quality goal.

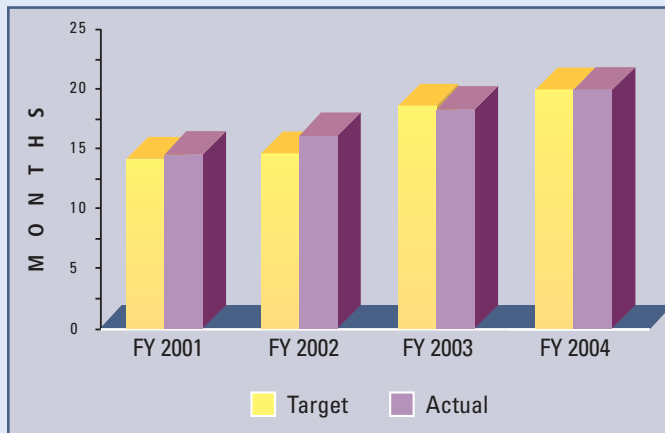
In support of the *21st Century Strategic Plan*, the USPTO will reduce patent pendency and substantially cut the size of the work backlog. The two primary measures of Patent organization processing time are: (1) first action pendency, which measures the average time in months from filing until an examiner's initial determination is made of the patentability of an invention; and (2) total pendency, which measures the average time in months from filing until the application issues as a patent or the application is abandoned by the applicant.

USPTO experts review and respond to questions during an Inventors Online discussion.



MEASURE: Reduce average first action pendency (months)

FIRST ACTION PENDENCY



DATA VALIDATION AND VERIFICATION

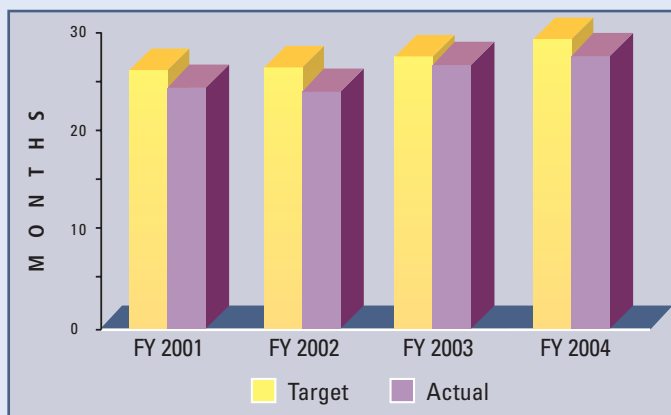
Data source: PALM system.
Frequency: Daily input, monthly reporting.
Data storage: PALM, automated systems, reports.
Verification: Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners, supervisors, and program management analysts.
Data Limitations: None.

	FY 2001	FY 2002	FY 2003	FY 2004
Target	13.9	14.7	18.4	20.2
Actual	14.4	16.7	18.3	20.2 met

Discussion: Target met. The initiatives identified in the USPTO 21st Century Strategic Plan will continue to reduce patent pendency, substantially cut the size of the work backlog, and recover our investments in people, processes, and technology.

MEASURE: Reduce average total pendency (months)

TOTAL PATENT PENDENCY



DATA VALIDATION AND VERIFICATION

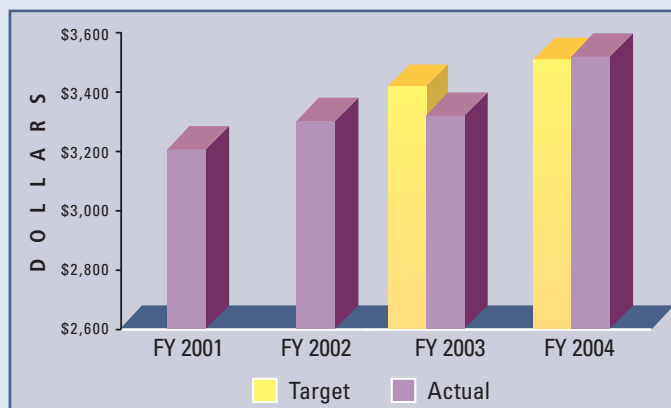
Data source: PALM system.
Frequency: Daily input, monthly reporting.
Data storage: PALM, automated systems, reports.
Verification: Accuracy of supporting data is controlled through internal program edits in the PALM system. Final test for reasonableness is performed internally by patent examiners, supervisors, and program management analysts.
Data Limitations: None.

	FY 2001	FY 2002	FY 2003	FY 2004
Target	26.2	26.5	27.7	29.8
Actual	24.7	24.0	26.7	27.6 met

Discussion: Target met. The initiatives identified in the USPTO 21st Century Strategic Plan will, over several years, reduce total patent pendency.

MEASURE: Efficiency

EFFICIENCY



DATA VALIDATION AND VERIFICATION

Data Source: PALM system.
Frequency: Daily input, quarterly reporting.
Data storage: PALM, Data Warehouse, Metify Activity Based Management (ABM).
Verification: Accuracy of supporting data is controlled through internal program edits in PALM, Momentum, Metify ABM. Quality control review of data by Activity Based Cost Accounting (ABC) team and program business teams.
Data Limitations: None.

	FY 2001	FY 2002	FY 2003	FY 2004
Target	—	—	\$3,444	\$3,502
Actual	\$3,210	\$3,376	\$3,329	\$3,556 see discussion

Discussion: This measure is a relative indicator of the efficiency of the patent process, which indicates the degree to which the program can operate within plan costs relative to examiner outputs. Actual costs on a unit basis were more than plan because, although production unit output was 3.5% greater than plan, the high production was offset by even higher costs. The measure is calculated by dividing total annual USPTO expenses associated with the examination and processing of patents, including associated overhead and support expenses, by annual production units. The target is calculated by dividing the enacted budget by the planned number of production units. Total annual USPTO expenses display full program costs that include the cost to the Federal government of providing pension and post-retirement health and life insurance benefits to eligible USPTO employees. These costs are not included in the enacted budget that was used to develop the efficiency measure target. If actual expenses were reduced by these benefit costs, the actual patent efficiency measure would be \$3,440, clearly within target.

PATENT COMMISSIONER'S PERFORMANCE FOR FY 2004

The American Inventors Protection Act (AIPA), Title VI, and Subtitle G, the Patent and Trademark Office Efficiency Act, established the USPTO as an agency of the United States, within the Department of Commerce, on March 29, 2000. The legislation provides for appointment of a Commissioner for Patents as the Chief Operating Officer for Patents, and a Commissioner for Trademarks as the Chief Operating Officer for Trademarks. It also requires that an annual performance agreement be established between the Commissioners and the Secretary of Commerce. The agreement outlines measurable organizational goals and objectives for the organization. The Commissioners may be rewarded a bonus, based upon an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary.

The Patent organization goals form the foundation for the annual performance agreement between the Commissioner for Patents and the Secretary of Commerce, as required by the AIPA. The performance agreement outlines measurable organizational goals and objectives for the Patent organization based on the performance goals and measures. These performance measures incorporated the milestones and objectives to achieve the following Patent goals: improve quality of examination, implement e-Government initiatives, and achieve the lowest possible pendency. At the time of publication, no determination regarding a performance bonus for the Commissioner of Patents had yet been made.

THE PATENT ORGANIZATION – WHAT'S AHEAD

The USPTO must address the challenges of rising workloads, the shift of applications from traditional arts to more complex technologies, and the reality that limitations and delays placed on *Strategic Plan* initiatives may delay the efficiency gains outlined in the Plan.

In fiscal year 2005, we will continue the quality efforts currently implemented, including the certification of examiners before the delegation of legal competency, recertification of primary examiners once every three years and review of work product throughout prosecution to ensure compliance with examination practice and procedures standards. Additionally, we will explore ways of automating pre-employment assessment of patent examiner applicants to make sure they have the needed competencies. In combination, these quality initiatives will provide improved patent quality by providing review of work product, feedback to examiners on areas for improvement, targeted training, and safeguards to ensure competencies.

Both the Patent and Trademark operations are rapidly moving to eliminate paper documents from their processes. As the reliance on paper disappears from internal processes, the costs for handling applications and related materials will be substantially reduced. Electronic communications will be improved, encouraging more applicants to do business electronically with the delivery of web-based text and image systems.

The technology being protected by patent rights has become increasingly complex, and demands from the public for higher quality products and services have grown in importance. In the U.S., demands for products and services have created substantial workload challenges in the processing of patents. The Congress, the owners of intellectual property, the patent bar, and the public-at-large have all told USPTO that it must address these challenges aggressively and promptly. Full funding and implementation of the *21st Century Strategic Plan* initiatives and timeframes will address these challenges and will transform the USPTO into a quality-driven, highly-productive, and efficient organization that will promote expansion of business opportunities, stimulate research and development, and expand U.S. businesses globally.

With enactment of proposed legislation changing the USPTO current fee schedule, revisions to current rules, and legislation streamlining the patent system, the USPTO will change its processes and hire sufficient numbers of new highly qualified patent examiners to control patent pendency and reduce the time to first office action.

BOARD OF PATENT APPEALS AND INTERFERENCES

The BPAI had a very productive fiscal year 2004. At the beginning of fiscal year 2004, BPAI had 1,968 pending appeals and 107 pending interferences. As of the end of fiscal year 2004, the inventory of pending appeals was reduced to 985 and the inventory of pending interferences was reduced to 76. These levels amount to inventory reductions of 50 percent and 29 percent, respectively, during fiscal year 2004. Additionally, the IFW was introduced at the BPAI. Thus, most new patent appeals are now in automated form. The BPAI also has a pilot program for processing interferences in electronic form as well. Furthermore, the BPAI has now relocated to the USPTO Headquarters in Alexandria, Virginia. At their new location, the BPAI and Trademark Trial and Appeal Board (TTAB) have a joint hearing room complex that includes a new state-of-the-art electronic hearing room that will allow for video oral hearings from remote locations.



Searchers begin using the new Public Search Facility at the Alexandria headquarters.

TRADEMARK PERFORMANCE

The core process within the Trademark organization is the examination of applications for trademark registration. As part of that examination, examining attorneys must make determinations of registerability under the provisions of the Trademark Act of 1946, as amended, including searching the electronic databases for any pending or registered marks that are confusingly similar to the mark in a subject application, preparing letters informing applicants of the attorney's findings, approving applications to be published for opposition, and examining Statements of Use in applications filed under the Intent-to-Use provisions of the Trademark Act.

The Trademark organization has made significant progress towards achieving the e-Government objectives of the *21st Century Strategic Plan*, which relies on electronic communications to offer market-based services and improve the availability of trademark information to more effectively serve an increasingly larger, global client-base. Electronic access increases the opportunity for filing for federal registration, which provides protection to business owners and consumers by providing notice of marks in use. Electronic filing and information systems serve customers in two very important ways, by improving the time and accessibility of information and by improving the quality of the initial application. Therefore, the quality of the data that is captured and shared in the publication and registration of trademarks.

The USPTO has discontinued the practice of creating and maintaining paper file copies of trademark applications and now relies exclusively on trademark data submitted or captured electronically to support trademark examination, publication of documents, and granting of registrations. This change in practice is in recognition of the progress made in creating and using electronic records to process and examine applications filed for the registration of a trademark. A complete electronic records database covering all trademark applications, including ongoing correspondence, was created by capturing the text and image of nearly 500,000 pending paper files and documents. The database supports paperless examination as the source of application records used within the trademark organization. It is currently accessible to the public through our Search Library with plans to expand access to everyone next year through the USPTO website.

Electronic systems were upgraded to increase the number and type of transactions that could be completed by examiners concurrent with the establishment of an electronic consolidated docket. This is a significant process change that will provide the capability to manage all examiner actions and dockets in a completely electronic environment as well as manage the assignment of new applications. This change improves workflow functionality and eliminates the need to have paper files to manage the work and take office actions for the core trademark examination process. Electronic docket management ensures consistency for the initial examination based on filing date order, regardless of the law office to which the examiner is assigned. Consolidation was necessary prior to the October 2004, relocation of the Trademark organization to the new USPTO headquarters in Alexandria, Virginia to ensure efficient space use at our new headquarters.

Electronic communications make it possible to conduct a preliminary search prior to filing an application; determine the status of pending and registered trademarks; respond to office actions; access general information, examiner manuals, treaties, laws and regulations; obtain weekly information on marks published, registered and renewed; file initial applications; and maintain a registered mark through the USPTO website. The USPTO publishes a weekly Trademark Official Gazette that contains information covering several thousand marks and other office actions electronically. The weekly publication is fully electronic; text and images that contain the layout are extracted from electronic records and sent to the Government Printing Office for printing registration certificates. The weekly Trademark Official Gazette, Registration Certificates and Updated Registration Certificates for the five most recent weekly issues are available electronically on the USPTO website. The entire publication, including Registration Certificates, is available as a PDF file that can be downloaded via the Internet for free, providing expanded as well as more timely access to trademark information.

The USPTO achieved several milestones by expanding the content and accessibility of trademark information in the past year. In the six years since electronic filing first became available, about 500,000 applications, including more than 625,000 classes, have been filed electronically for the registration of a trademark. Today, more than 70 percent of all new trademark

applications are filed electronically through the award-winning TEAS, an increase of more than 25 percent over fiscal year 2003 results.

Over the past year, the Trademark organization has continued to enhance the features available to the public, as well as working to ensure the overall transformation of the Trademark organization as an effective e-Government operation. Twenty-one electronic TEAS forms are now available. Seven new forms have been added in the past year, expanding the number and type of transactions that can be completed online. The availability of more types of transactions, as well as the convenience of trademark related information available via the Internet improves our ability to provide timely and useful information, while stimulating demand for more services.

Madrid Protocol

The U.S. became a member of the Madrid Protocol on November 2, 2003. All the legal requirements for implementing the Madrid Protocol in the U.S. were met to ensure implementation on the effective date. The process of registering trademarks in one or more of the 61 member countries has been greatly improved for U.S. business owners who are now able to file a single application with the USPTO in English, pay the International Bureau of the WIPO in Swiss francs, and potentially have their mark protected in any or all of the countries that are members of the Madrid Protocol. Non-U.S. trademark owners of member countries may elect to seek an extension of protection of their international registration in the U.S. by filing through the International Bureau of the WIPO. The USPTO received 1,572 international applications and 4,822 requests for extension of protection or subsequent designation containing 9,198 classes from the International Bureau in the first 11 months under the Madrid Protocol.

Trilateral Project

Representatives from the USPTO, the European Union's Office for Harmonization in the Internal Market (OHIM), and the Japan Patent Office (JPO), completed the first phase of the harmonization of identifications and classification project in May. The objective of the Trilateral Identification and Classification Manual Project is to make the trademark application and examination process easier by agreeing on the acceptability of certain identifications of goods and services for use in all three offices. The Trademark Identification Manual was updated to incorporate identifications for goods and services that have been accepted in the first phase of this ongoing project.



At the Trademark Trilateral meeting in May the first phase of the harmonization of identifications and classification project was completed.

Paralegal Examination

A pilot program was conducted to evaluate the use of paralegals to perform some aspects of examination related to the USPTO's *21st Century Strategic Plan* initiative "transforming work: the e-Government workplace." Four paralegals examined statements of use in phase one of the pilot. An evaluation of the pilot program results will be prepared prior to making any decisions to change how examination is conducted.

Quality

During the past year, the Trademark organization worked to establish a more consistent measure that would better reflect the current quality of examination. The new criteria expand on the issues that are considered for determining the quality of in-process first and final office actions as "excellent" and "deficient" to better reflect more meaningful and rigorous standards of quality. The information from these reviews has been used to identify and focus training to enhance overall product quality and to improve the consistency of examination. Seven training modules under sections 2(a) and (d) of the Trademark Act were prepared to address some of the recurring problems that were identified based on analyses of the reviews. Examiners are required to take a series of self-paced tutorials, as part of the USPTO's commitment to improve the quality of examination and ensure that all examiners possess the knowledge and skills necessary to perform their jobs.

Customer Call Center

The USPTO installed a modern call center system with customer relationship management technology to enhance its effectiveness in handling and responding to customer calls and inquiries. The system is a state-of-the-art web-based information system that enables agents to manage customer data, track problems, fulfill information requests, answer e-mails, and provide consistent information. Data is used to identify trends, conduct root cause analysis, track problem resolution, and take action to prevent and eliminate the reoccurrence of problems.

Telecommuting

The USPTO continues to gain recognition as a leader in the federal government for its successful telecommuting program. The Trademark telecommuting program was designed so that examiners could perform the same work and access the same IT systems from home as they do in the office. Examiners participating in the trademark work-at-home-program work from home for a majority of the workweek using an automated reservation system to assign office space on an as-needed basis. The program met its objective to greatly reduce office space requirements and costs, and was expanded to 150 examiners following system enhancements and the approval of a new agreement. The program will be expanded in fiscal year 2005 to include other employees throughout the Trademark organization.

The USPTO received the "Best Organization for Teleworkers" award from the Mid-Atlantic Telework Advisory Council on November 7, 2003. The Council is dedicated to encouraging professional development of telecommuting programs. The USPTO was recognized for the agency's results-oriented telework program as a best business practice.

Filings

New application filings for trademark registration increased by 11.7 percent in the past year, the most significant increase since fiscal year 1999 and 2000, when filings increased 27 percent over two consecutive years. The USPTO received 244,848 trademark applications, including 298,489 classes for registration in fiscal year 2004, 9.7 percent above target.

Office Disposals

Total office disposals were 211,062, including 265,922 classes, 17 percent above target. Registrations declined by more than 16 percent to 120,056, including 155,991 classes, as the number of pending applications remaining from prior years with higher filings were disposed.

Pending Inventory

Total trademark applications pending in the USPTO increased by 4.3 percent in fiscal year 2004 to 450,294, with 590,155 classes. The total classes increased 2.5 percent from fiscal year 2003. Twenty-two percent of the pending file inventory is in a post- Notice of Allowance status, awaiting the filing of a statement of use. The inventory of unexamined applications at the end of the fiscal year was 127,060, containing 151,206 classes, an increase of 38 percent from the prior fiscal year. The increase in unexamined new applications was consistent with the increase in application filings, which was also reflected in the rise in first action pendency.

PERFORMANCE GOAL: *Improve the quality of trademark products and services and optimize trademark processing time.*

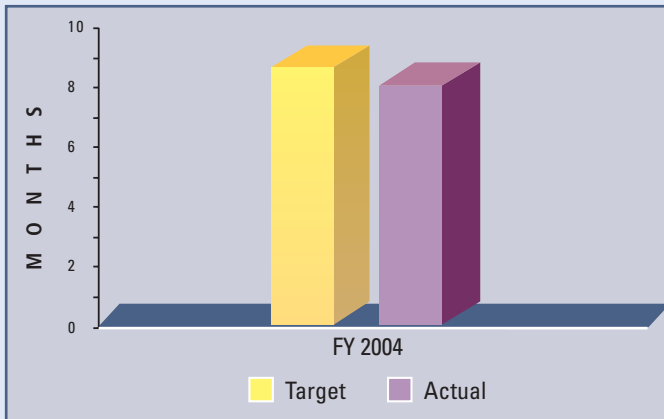
Under the *21st Century Strategic Plan*, the Trademark organization will enhance quality assurance programs to include a more in-depth review of work in progress. This includes the implementation of in-process reviews that consider all elements of decision making in evaluating examiner first and final office actions. Also, in support of the *21st Century Strategic Plan*, the Trademark organization will automate the management of its workflow to reduce processing times. The following performance measures have been established to reflect the USPTO's success and progress in meeting this performance goal.

NEW MEASURE: *Trademark First and Final Action Deficiency Rate*

The Trademark organization implemented two new measures for assessing examination quality in the past year that includes an evaluation of all issues that could be considered deficient in making a substantive refusal. Evaluations are conducted on a random sample of applications to review the quality of decision making of the examiner's first office action and final refusal (final action). Two thousand two hundred and forty files were reviewed, with 176 files having at least one deficient substantive refusal, for a first action deficiency rate of 7.9 percent. Two thousand two hundred and five files were reviewed, with at least one issue determined in 128 files, for a final action deficiency rate of 5.8 percent. These two measures replace the FY 03 measure "Improve the quality of trademarks by reducing the error rate."

Customers are rightly concerned with the quality of the products and services they receive in exchange for the fees they pay. The Trademark organization has created a new "in-process review" standard for assessing excellent and deficient work to create a more comprehensive meaningful and rigorous review of what constitutes quality.

FIRST ACTION DEFICIENCY RATE TRADEMARK EXAMINATION



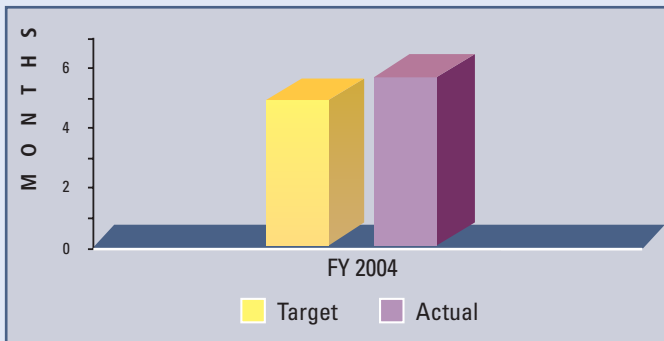
DATA VALIDATION AND VERIFICATION

Data source: Office of Trademark Quality Review Report.
Frequency: Daily input, monthly reporting.
Data storage: Automated systems, reports.
Verification: Manual reports and analysis.
Data Limitations: None.

	FY 2001	FY 2002	FY 2003	FY 2004
Target	—	—	—	8.3%
Actual	—	—	—	7.9% met

Discussion: Target met. The results of an examiner's first action are reviewed for the quality of the substantive basis for decision-making, search strategy, evidence, and writing. The new measure considers more elements for review and evaluation with training targeted to topics that warrant improvement. Examiners are given specific feedback about excellent as well as deficient work to further improve quality.

FINAL ACTION DEFICIENCY RATE TRADEMARK EXAMINATION



DATA VALIDATION AND VERIFICATION

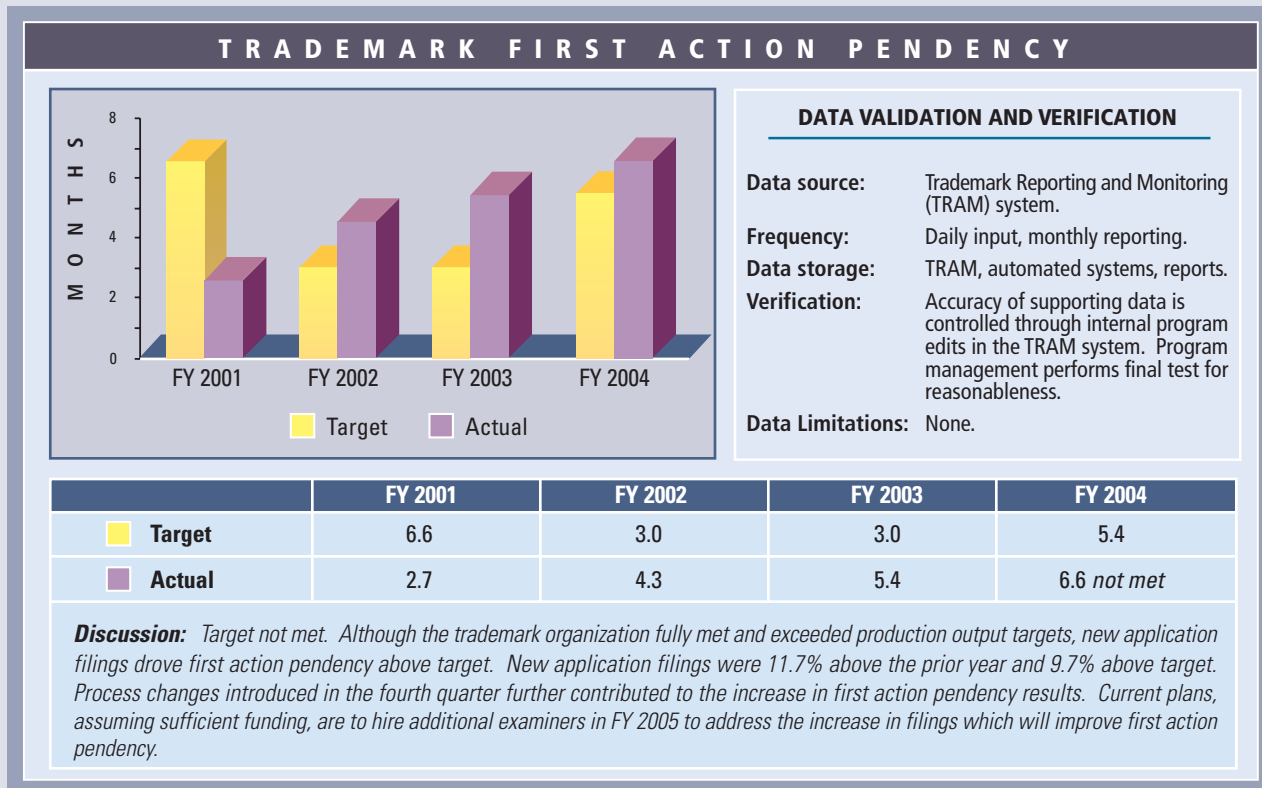
Data source: Office of Trademark Quality Review Report.
Frequency: Daily input, monthly reporting.
Data storage: Automated systems, reports.
Verification: Manual reports and analysis.
Data Limitations: None.

	FY 2001	FY 2002	FY 2003	FY 2004
Target	—	—	—	5.0%
Actual	—	—	—	5.8% not met

Discussion: Target not met. Customers are rightly concerned with the quality of the products and services they receive in exchange for the fees they pay. The Trademark organization has created a new "in-process review" for assessing excellent and deficient work to create a more comprehensive meaningful and rigorous review of what constitutes quality. The results of examiner final refusal are reviewed for the quality of the substantive basis for decision making, search strategy, evidence, and writing. The new measure considers more elements for review and evaluation with training targeted to topics that warrant improvement. Examiners are given specific feedback about excellent as well as deficient work to further improve quality. Several e-learning training modules have been developed to address examination quality issues and will be released to examining attorneys in FY 2005. The learning modules address examination issues that currently have the largest impact on examination quality. In addition to training modules, the Office of Trademark Quality Review has begun issuing policy papers and examination tips aimed at correcting procedural deficiencies.

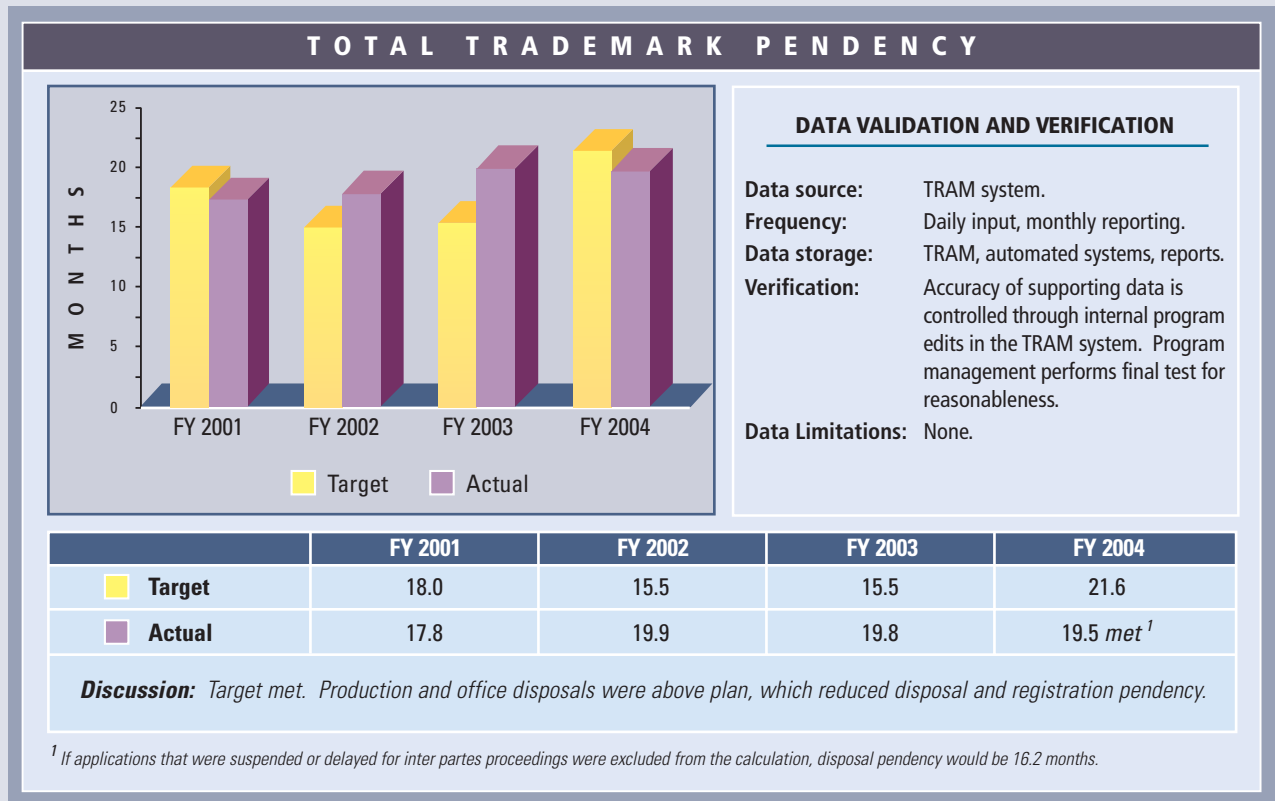
MEASURE: Reduce Average First Action Pendency (months)

This measure reflects the timeliness of the first office action as measured from the date of application filing to the mailing of the first action.



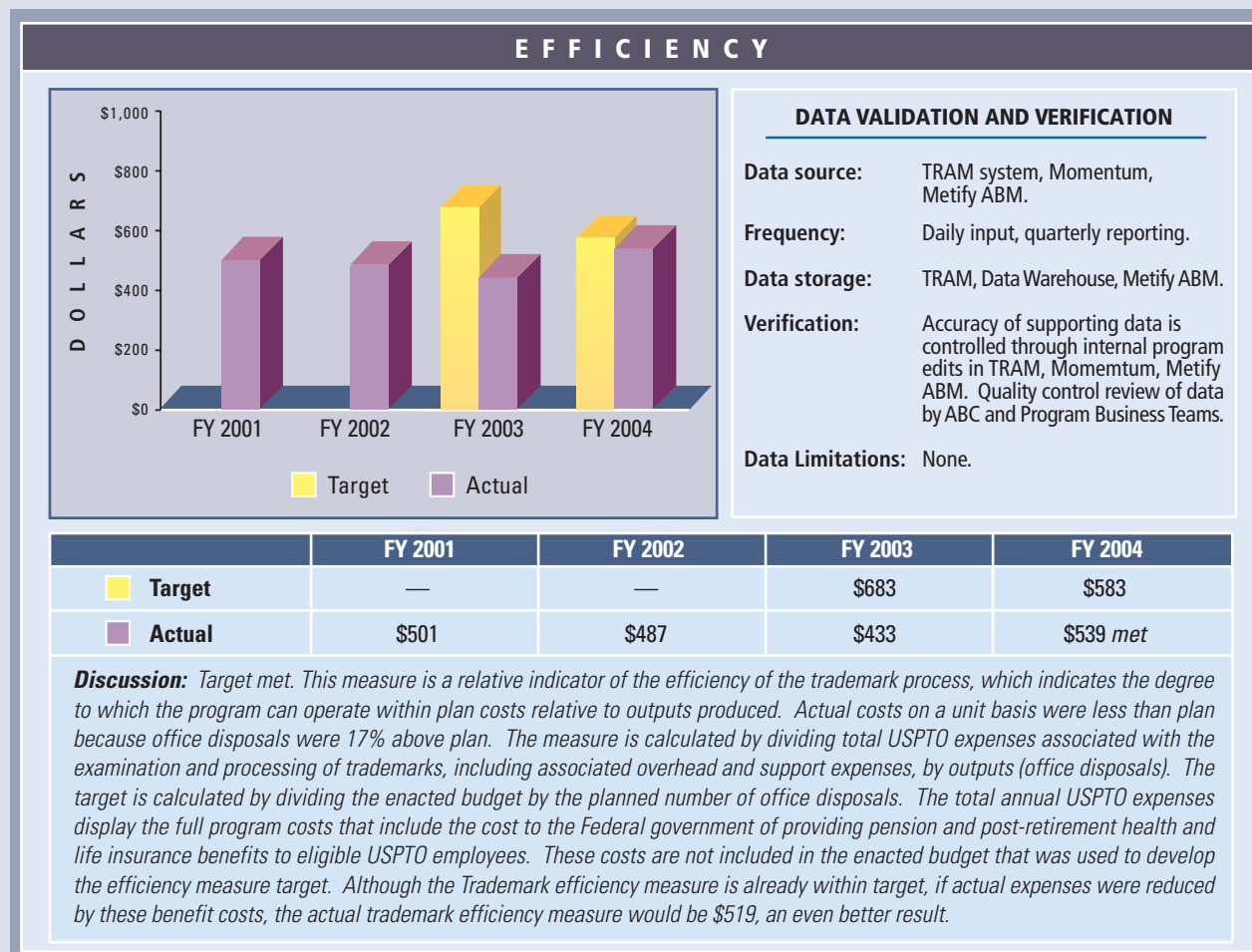
MEASURE: Reduce average total pendency (months)

This measure reflects the timeliness related to the disposal of a trademark application, as measured from the date of filing to registration, abandonment or issuance of a notice of allowance including applications that are suspended awaiting further action or involved in inter partes proceedings.



MEASURE: Efficiency

This measure is a relative indicator of the efficiency of the trademark process as measured by the total annual cost of programs that support the examination and registration of trademarks compared to its annual core outputs.



TRADEMARK COMMISSIONER'S PERFORMANCE FOR FISCAL YEAR 2004

The AIPA, Title VI, Subtitle G, the Patent and Trademark Office Efficiency Act, established the USPTO as an agency of the U.S., within the Department of Commerce, on March 29, 2000. The legislation provides for appointment of a Commissioner for Patents as the Chief Operating Officer for Patents, and a Commissioner for Trademarks as the Chief Operating Officer for Trademarks. It also requires that an annual performance agreement be established between the Commissioners and the Secretary of Commerce. The agreement outlines measurable organizational goals and objectives for the organization. The Commissioners may be rewarded a bonus, based upon an evaluation of their performance as defined in the agreement, of up to 50 percent of their base salary.

The Trademark Business goals formed the foundation for the annual performance agreement between the Commissioner for Trademarks and the Secretary of Commerce, as required by the AIPA. The Commissioner for Trademarks resigned her position prior to the end of the fiscal year; therefore, performance for the past year was not evaluated.

THE TRADEMARK ORGANIZATION – WHAT'S AHEAD

The Trademark organization will continue to move aggressively in the next year to continue to implement the objectives of the USPTO's *21st Century Strategic Plan* by redesigning its operations to implement e-Government as the primary means of doing business with applicants and registrants. It is expected that this process will become the sole means for processing work inside the examining operation.

The Trademark organization has achieved considerable success in implementing its business process reengineering plan to move from primarily doing business with paper to doing business in an electronic environment. Completion of an electronic file management system, in addition to our currently available electronic filing and information systems permits:

- Reduction in cycle times by consolidating separate processes and eliminating the potential for lost or missing papers that create additional delays and poor service;
- The ability to access the current full-file contents of pending trademark applications from the USPTO website;
- Enhancements in system functionality and number of electronic filing options; and
- The ability to offer a totally electronic filing and receiving process to handle applications from U.S. applicants seeking protection of their mark in foreign countries, and requests for protection of marks from foreign countries in the U.S.

As paper records disappear from internal processes, the cost of handling applications and related materials, along with the reliance on higher staffing levels to handle increases in filings, will be substantially reduced. Applicants will see improved quality with the transition to use data submitted or captured electronically to support examination and to publish documents and registrations. Electronic file management presents an opportunity for the USPTO to offer multiple options for filing that allow applicants to select the method of filing that best suits their business needs. The trademark user community will benefit from the introduction of the multi-track examination, included in the U.S. Patent and Trademark Fee Modernization Act of 2004, which will provide trademark owners options for filing at lower fees than are available today.

TRADEMARK TRIAL AND APPEAL BOARD

The TTAB met its pendency goal in fiscal year 2004. The goal was to issue final decisions and decisions on trial motions, on average, within ten weeks of the time they were fully submitted for decision. At the end of fiscal year 2004, the TTAB was issuing decisions, on average, in 9.97 weeks.

In fiscal year 2004, the TTAB completed deployment of its suite of electronic filing forms. Now, any filing with TTAB can be made electronically. By the end of fiscal year 2004, 63 percent of extensions of time to oppose were being received and processed electronically, as were 33 percent of notices of opposition and 26 percent of petitions to cancel. Finally, the TTAB deployed its TTABVue system to the Internet in early fiscal year 2004. TTABVue allows public access to the image records and prosecution history data for filings in proceedings filed since January 2003, and a significant percentage of those filed after June 2001.

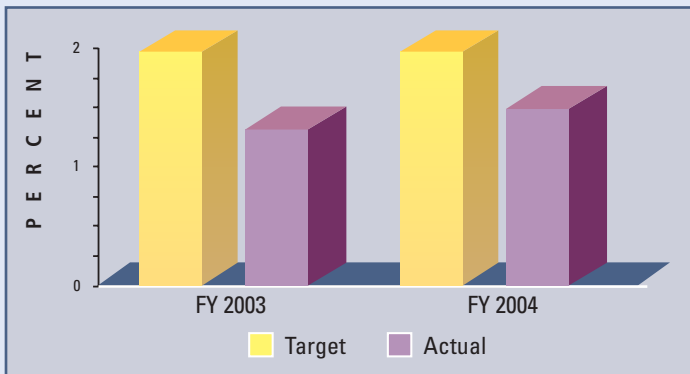
E-GOVERNMENT AND INTELLECTUAL PROPERTY PERFORMANCE

PERFORMANCE GOAL: *Create a more flexible organization through transitioning patent and trademark applications to e-Government operations and participating in intellectual property development worldwide.*

Under the *21st Century Strategic Plan*, the USPTO will work with our intellectual property partners to improve the efficiency of our processing systems by increasing the number of applications and communications received and processed electronically, create more coordinated and streamlined work processes, and best position the USPTO for the globalization that characterizes the 21st century economy. The following performance measures have been established to reflect the USPTO's success and progress in meeting the Strategic Plan goals supporting the agility theme.

MEASURE: *Patent Applications Filed Electronically*

PATENT APPLICATIONS FILED ELECTRONICALLY



DATA VALIDATION AND VERIFICATION

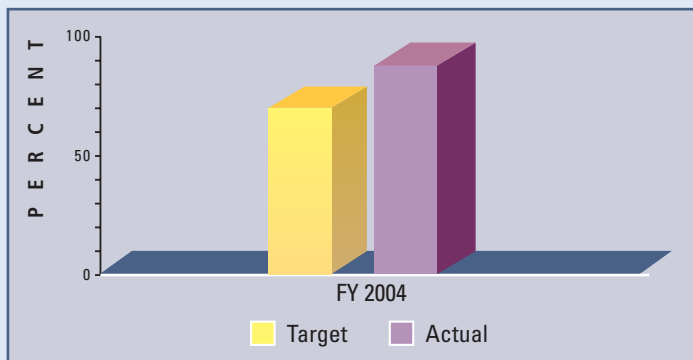
Data source: Patent Application Location and Monitoring (PALM) system.
Frequency: Daily input, weekly reporting.
Data storage: PALM and automated systems.
Verification: Accuracy of supporting data is controlled through internal program edits in the PALM system and cross checks against other automated systems.
Data Limitations: None.

	FY 2001	FY 2002	FY 2003	FY 2004
Target	—	—	2.0%	2.0%
Actual	—	—	1.3%	1.5% <i>not met</i>

Discussion: *Target not met. This measure indicates USPTO's support of, and applicants' willingness to operate in, an e-Government environment and identifies the percent of basic patent applications filed electronically. There is some reluctance on the part of the patent applicants to file electronically including: 1) customers are familiar with the paper based systems already in place; 2) they have not invested the time and resources necessary to upgrade their internal systems to enable them to file electronically; and 3) they want a simple, user-friendly system which does not require them to change their internal processes. The agency will be implementing a customer outreach program designed to address patent applicants' concerns and promote the benefits of filing applications electronically.*

NEW MEASURE: Patent Applications Managed Electronically

PATENT APPLICATIONS MANAGED ELECTRONICALLY



DATA VALIDATION AND VERIFICATION

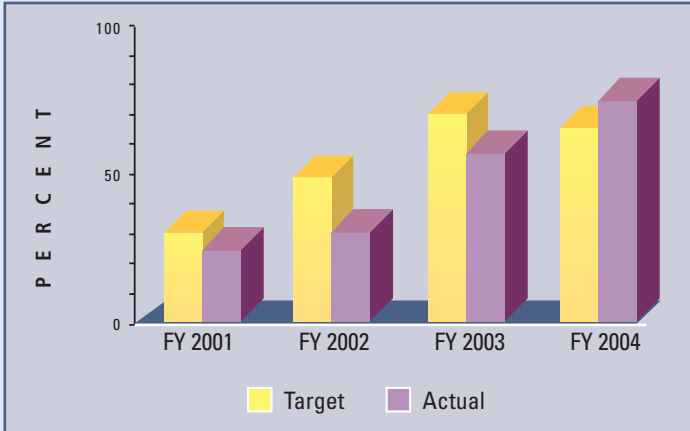
Data source: Patent Application Location and Monitoring (PALM) system.
Frequency: Daily input, weekly reporting.
Data storage: PALM and automated systems.
Verification: Accuracy of supporting data is controlled through internal program edits in the PALM system and cross checks against other automated systems.
Data Limitations: None.

	FY 2001	FY 2002	FY 2003	FY 2004
Target	—	—	—	70%
Actual	—	—	—	88% met

Discussion: Target met. This measure indicates the USPTO's progress in moving toward operating in a fully electronic environment. During FY 2004, Patents achieved a significant e-Government milestone with the completion of the deployment of the Image File Wrapper (IFW) system to all patent examiners, technical support staff, and many other users to deploy an end-to-end electronic patent process. The IFW deployment schedule was coordinated with the move of several of the Technology Centers to the new headquarters in Alexandria, Virginia to eliminate movement of paper patent applications, and also related to the number of remaining paper applications (filed prior to June 30, 2003) available for examination in particular Technology Centers. The IFW system contains new applications filed since June 30, 2003, and many pending applications that were captured electronically during the IFW deployment. Scanning of additional pending applications is ongoing. This database of information enabled the expansion of the Public PAIR system.

MEASURE: Trademark Applications Filed Electronically

TRADEMARK APPLICATIONS FILED ELECTRONICALLY



DATA VALIDATION AND VERIFICATION

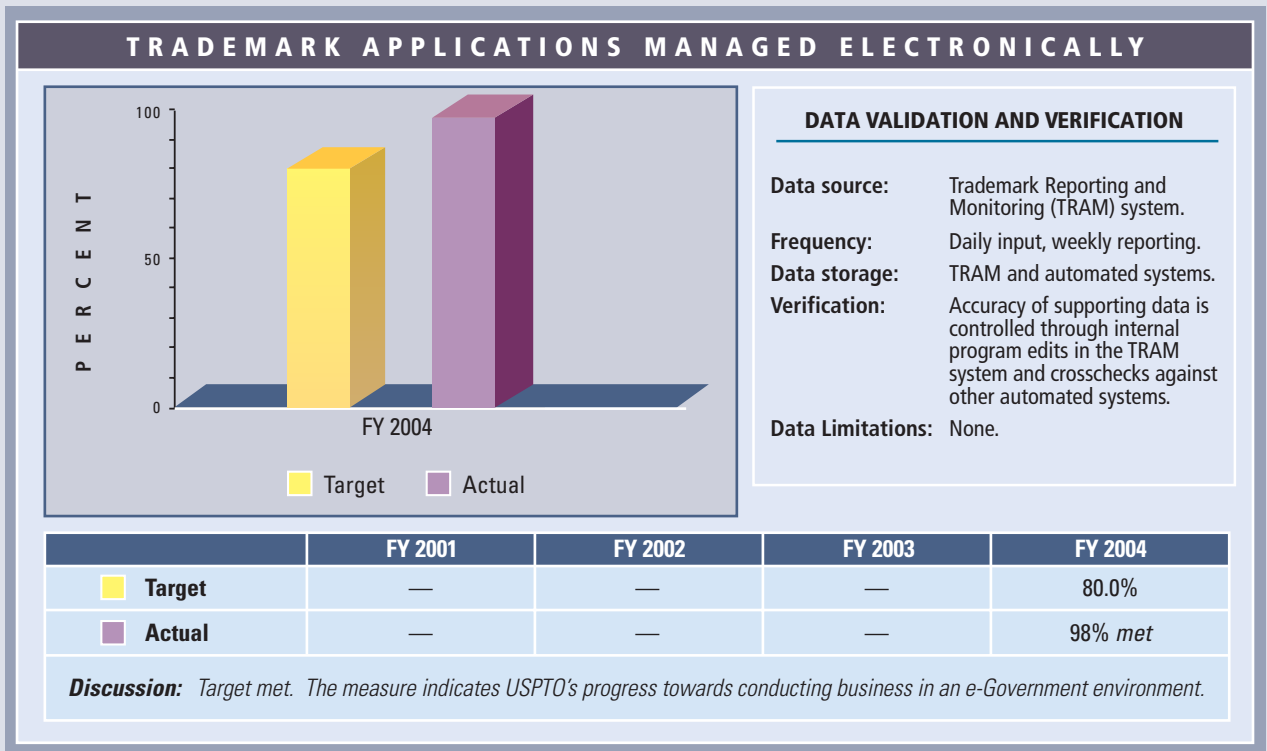
Data source: Trademark Reporting and Monitoring (TRAM) system.
Frequency: Daily input, weekly reporting.
Data storage: TRAM and automated systems.
Verification: Accuracy of supporting data is controlled through internal program edits in the TRAM system and crosschecks against other automated systems.
Data Limitations: None.

	FY 2001	FY 2002	FY 2003	FY 2004
Target	30%	50%	80%	65%
Actual	24%	38%	57.5%	73% met

Discussion: Target met. The measure indicates USPTO's support of, and applicants' willingness to operate in an electronic environment and identifies the percent of basic trademark applications filed electronically. Total electronic filings increased by nearly 27% over FY 2003 results. The rate of filing trademark applications has progressed steadily over the years as a result of promotional events, increased number and type of applications and documents that may be filed electronically, and improved functionality and enhancements that have been made to appeal to more customers.

NEW MEASURE: Trademark Applications Managed Electronically

This measure demonstrates the progress the Trademark organization has made to examine and process applications in a completely electronic environment. Trademarks has captured 98 percent of the application inventory as an electronic file record, which includes text and image of the initial application and subsequent applicant and office correspondence for nearly 500,000 pending applications. Examining attorneys have been using the electronic record of the initial application to conduct their first office actions since July 2003, through a system that manages the workflow and their transactions. In July 2004, second and subsequent actions were added, eliminating the need to use paper files to process and examine applications for the core examination function.



INTELLECTUAL PROPERTY POLICY AND LEADERSHIP PERFORMANCE



Under Secretary Dudas addresses the American Intellectual Property Law Association.



The Department of Commerce and the USPTO fully appreciate the crucial role of intellectual property development and protection in promoting the economic competitiveness of the United States. In addition to the examination and issuance of patents and trademarks, the USPTO works to improve protection of the intellectual property of American innovators and creators on both the domestic and international levels.

Under the American Inventors Protection Act of 1999 (AIPA)(Public Law 106-113), the USPTO is directed to advise — through the Secretary of Commerce — the President, and all federal agencies on national and international intellectual property policy issues, including intellectual property protection in other countries. USPTO is also authorized by the AIPA to provide guidance, conduct programs and studies, and otherwise interact with foreign intellectual property offices and international intergovernmental organizations on matters involving the protection of IP.

Through our Offices of International Relations, Enforcement, and Congressional Relations, the USPTO: (1) helps negotiate and works with Congress to implement international intellectual property treaties and develop domestic IP-related legislation; (2) provides technical assistance to foreign governments that are looking to develop or improve their intellectual property laws and systems; (3) provides capacity-building programs to foreign intellectual property officials on intellectual property enforcement; (4) assists in the drafting and revision of intellectual property sections in bilateral investment treaties and trade agreements; (5) advises the USTR on intellectual property issues in the World Trade Organization (WTO); (6) works with USTR and industry on the annual review of intellectual property protection and enforcement under the Special 301 provisions of the Trade Act of 1974; and (7) consults with the Department of Justice and other federal law enforcement entities who are responsible for intellectual property enforcement.

In fiscal year 2004, intellectual property activities included:

INTELLECTUAL PROPERTY TREATIES/AGREEMENTS

PCT Reform: The USPTO continued to participate in the WIPO's Committee on Reform of the PCT in an effort to achieve a more simple, cost-effective system. Major treaty reforms, based on a U.S. initiative, became effective on January 1, 2004. The U.S. led efforts in fiscal year 2003 to revise the PCT search and preliminary examination guidelines, which provide International Authorities with guidance in the handling and processing of applications under the new combined search and examination system. In March 2004, these guidelines went into effect for international applications filed on or after January 1, 2004. The Meeting of the International Authorities mechanism was reconvened in fiscal year 2004 to, among other things, exchange information on the new enhanced international search and preliminary examination system in effect since January 1, 2004.

Standing Committee on the Law of Patents (SCP): The USPTO participated in WIPO's SCP in an effort to reach agreement on a harmonized set of substantive patent laws. In May 2004, the Trilateral Offices (USPTO, JPO and EPO) proposed that discussions focus on prior art issues to improve chances for an early agreement. Because the SCP could not reach consensus on this proposal, the WIPO General Assembly at its meeting September 27 through October 5, 2004, will determine the organization of future work of the SCP.

WIPO Internet Treaties: The WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), commonly known as the WIPO Internet Treaties, are designed to ensure international protection of copyrighted works, performances, and sound recordings in the digital environment. Over the last several years, the USPTO has worked to ensure the ratification and full implementation of the Treaties, which entered into force in fiscal year 2002. Currently, 48 countries are members of the WCT and 44 of the WPPT, helping to create a seamless web of protection for copyright works online.

Standing Committee on the Law of Trademarks, Industrial Designs, and Geographical Indications (GI): The USPTO continued to promote and actively participate in Trademark Law Treaty (TLT) reform as the primary focus of work by the Standing Committee. The USPTO supports inclusion in the revised TLT of the text of the Joint Recommendation on Trademark Licenses, which sets out maximum requirements for license recordal. Inclusion of the text would limit the negative effects for trademark owners in those countries where recordal of trademark licenses is required to maintain both the trademark

Former Under Secretary Rogan signs agreements at the 21st Annual Patent Trilateral meeting in Tokyo. Joining the Under Secretary at the signing ceremony are Yasuo Imai, (center) Commissioner of Japan's Patent Office and Ingo Kober (left), President of the European Patent Office.



registration and the license. Also, the Standing Committee reached consensus that the revised TLT should allow offices to choose the means of transmittal of communications, giving the USPTO the flexibility to move to complete electronic processing for trademarks in the future. The Standing Committee forwarded a recommendation to the WIPO General Assembly to schedule a diplomatic conference for 2006, in which adoption of the revised TLT would be considered. The Standing Committee also decided to inform the Internet Corporation for Assigned Names and Numbers that no recommendation would be made to extend protection of the Uniform Domain Name Dispute Resolution Policy (UDRP) to names by which countries are familiarly or commonly known. The USPTO does not favor expansion of the UDRP to those areas in which there is a lack of international law or consensus, including country names, and has continued its educational efforts to raise awareness about possible problems in expanding the UDRP beyond instances of cybersquatting.

Standing Committee on Copyright and Related Rights (SCRR): The USPTO continued to participate in the work of the SCRR to develop its proposal on treaty language for a new WIPO treaty for the Protection of the Rights of Broadcasting, Cablecasting, and Webcasting Organizations. The SCRR also monitored national developments in the legal protection of databases and reported on related developments in U.S. legislation.

Free Trade Agreements (FTA): The USPTO advised the Office of the USTR on intellectual property issues in successful FTA negotiations with Australia, Bahrain, Morocco, and five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua). In addition, the USPTO participated in newly-launched FTA negotiations with several additional countries, including Panama, the Dominican Republic, Thailand, Andean Countries (Peru, Colombia and Ecuador) and the Southern Africa Customs Union, composed of Botswana, Lesotho, Namibia, South Africa and Swaziland. The USPTO also continued advising USTR on the negotiations on the Free Trade Area of the Americas. In these negotiations, USPTO worked with USTR and delegations from each country to assure that standards are created that build on the foundation established in the agreement on Trade Related Aspects of Intellectual Property (TRIPs) and other international agreements to protect Intellectual Property.

WTO/TRIPs: The USPTO actively participated in U.S. delegations to the Council for TRIPs of the WTO over the past year. The TRIPs Council continued to review the intellectual property regimes of numerous countries and continued its discussions relating to traditional knowledge, genetic resources, technology transfer, the protection of GIs, and other issues. With the continuation of the ongoing round of multilateral trade negotiations in the WTO that was launched at Doha, Qatar, in November 2001, the USPTO has remained actively involved in WTO intellectual property issues.

WIPO Intergovernmental Committee: The USPTO headed the U.S. delegation to the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge, and Folklore. The focus of U.S. efforts is to encourage developing countries to meet stated concerns about protecting genetic resources, traditional knowledge, and folklore either through current intellectual property regimes or through non-intellectual property laws. Progress has been made in the development of model contractual provisions and traditional knowledge databases.

International Science and Technology (S&T) Agreements: The USPTO continued working closely with the U.S. Department of State in the negotiation of cooperative S&T agreements with other countries, including provisions of the intellectual property annex to S&T agreements that ensure equitable allocation of rights to intellectual property created in the course of cooperative research.

ENFORCEMENT

Technical Assistance and Capacity-Building: The USPTO was actively engaged on a number of fronts to strengthen intellectual property administration, protection and enforcement abroad. The Office of Enforcement participated in FTA negotiations, providing advice relating to enforcement obligations. The Office provided guidance and recommendations relating to the Special 301 review and enforcement issues. Policy guidance was provided to USTR on accession to the WTO and in bilateral negotiations.

In particular, the Office of Enforcement sought and obtained substantial funding to conduct capacity-building and technical assistance programs in the Middle East and North Africa region under the U.S. Department of State Middle East Partnership Initiative. In Southeast Asia, the U.S. Agency for International Development funded the Association of South East Asian Nations (ASEAN) Cooperation Plan program and the USPTO conducted a variety of intellectual property enforcement and capacity-building programs. For example, in October 2003, the USPTO co-hosted with WIPO a four-day intensive Enforcement Academy, that included the participation of 38 judges, prosecutors, customs and law enforcement officials from 26 countries. In January 2004, the USPTO organized and conducted a Training Workshop for more than 50 intellectual property enforcement officials, prosecutors, and judges from seven Middle Eastern countries in Muscat, Oman. In February 2004, capacity-building workshops on intellectual property enforcement issues were held in Guyana and Suriname. The Office of Enforcement also participated in the WIPO Advisory Committee on Enforcement, focusing on civil proceedings, administrative decisions, criminal proceedings, and prosecution.

The Office of Enforcement, in coordination with the Italian Ministry of Productive Activities and the U.S. Embassy in Italy, held an Intellectual Property Rights Judicial Workshop in Italy in October 2003, and participated in a United Nations Economic Commission for Europe enforcement seminar in Ukraine.

Linda Lourie, USPTO attorney-advisor, talks with Paul Bremer, then head of the Coalition Occupational Authority, during her assignment in Iraq where she worked with Iraqi officials on issues related to their intellectual property system.





Deputy Under Secretary Pinkos (right) meets with Ian Heath, Director General of IP Australia.

In April 2004, the USPTO, working closely with the Caribbean Community and Common Market and the International Intellectual Property Institute (IIP), organized and held a major conference, the *Symposium on the Establishment of the Caribbean Court of Justice: The Effect on Intellectual Property and International Trade*, in Bridgetown, Barbados, that brought together more than 200 distinguished jurists and legal practitioners from the Caribbean region to discuss the role of the new Caribbean Court of Justice from an intellectual property protection, enforcement, and international trade perspective. Also, in April 2004 the USPTO held two judicial conferences focusing on intellectual property rights enforcement in Poland for the judiciary and prosecutors.

In coordination with the Commercial Law Development Program and the U.S. Embassy in Croatia, the Office of Enforcement participated in the Southeast Europe Intellectual Property Rights Border Enforcement and Regional Customs Cooperation Workshop in Croatia in May 2004. Countries participating in the workshop included: Bulgaria, Romania, Macedonia, Bosnia-Herzegovina, Serbia, Montenegro, Albania, Croatia and the UN Mission in Kosovo.

In May 2004, the USPTO, in partnership with the ASEAN Secretariat and the government of Australia, organized and conducted a workshop in Bangkok, Thailand, for more than 90 judges, prosecutors, and intellectual property officials from ten Southeast Asian countries. In July 2004, the USPTO, in partnership with the Pacific Islands Forum Secretariat and the governments of Australia, New Zealand, and Singapore, organized and conducted a workshop on intellectual property protection and enforcement for intellectual property and trade officials from 14 South Pacific island nations.

In August 2004, the USPTO once again assisted the government of Jordan in holding its Second Annual Intellectual Property Week workshops on intellectual property protection, enforcement, and public awareness, with more than 300 participants attending, including six Iraqi judges. Also, in August 2004 the USPTO organized a Workshop on the Enforcement of Intellectual Property Rights in Johannesburg, South Africa, and a Seminar on Fostering Economic Development and Ensuring Public Safety through IPR protection in Kampala, Uganda. Both programs brought together high level officials from government agencies, and private sector representatives, to discuss the importance of protecting and enforcing intellectual property rights.

In September 2004, the USPTO in partnership with Central American Secretariat for Economic Integration and IIPi, organized and conducted a workshop in Antigua, Guatemala for Central American judges and prosecutors focusing on the intellectual property enforcement provisions of the concluded U.S.-Central America Free Trade Agreement.

In September 2004, the Office of Enforcement in coordination with the Turkish Ministry of Justice and the U.S. Embassy in Turkey conducted a Workshop on the Effective Enforcement of Intellectual Property Rights for judges and prosecutors in Ankara, Turkey.

Bilateral and Multilateral Negotiations: The USPTO advised many U.S. government agencies on issues involving IPR protection and enforcement involving countries, regions, and international organizations throughout the world. The USPTO officials have also supported negotiations undertaken by the Department of Commerce, the USTR, and other officials on intellectual property matters in various countries. By working closely with the USTR, the U.S. Department of Justice, and the Department of Commerce's International Trade Administration, USPTO officials have also worked to provide for proportionate, deterrent penalties for commercial scale counterfeiting and piracy in East Asia, South Asia, and other regions.

Special 301: The USPTO advised the USTR in the administration of the Special 301 provisions in U.S. trade law, which requires the USTR to identify those countries that do not provide adequate and effective protection for IPR or lack of market access for products relying on intellectual property protection. The USPTO provided analyses of intellectual property laws of numerous countries, and participated in several bilateral consultations and negotiations conducted by the USTR under Special 301 and in the context of the U.S. trade agenda.



*Under Secretary Dudas
tours an examiner's
office in China.*

TRILATERAL

Patent Trilateral Offices: The Patent Trilateral Technical Meeting, convening in May 2004, continued the cooperative effort that began in 1983 between the USPTO, the JPO, and the EPO. The meeting focused on issues for sharing search results among the three offices, data compatibility with the various electronic filing systems in order that an application can be authored once and filed in multiple countries. Discussions also covered content and access to each office's electronic files/dossiers, and patent law harmonization. Work continued in these areas during fiscal year 2004 in preparation for the 22nd Annual Trilateral Pre-Conference and Conference which will be held at the USPTO's new Alexandria, Virginia headquarters in November 2004.

Trademark Trilateral Offices: At the May 2004 Trademark Trilateral Cooperation Meeting, the USPTO, together with the JPO and the the European Community's OHIM, agreed to a list of identifications and classifications for goods and services that will be accepted in trademark applications filed in the three offices. Having a consistent list for all three offices will make trademark registration easier and faster in the United States, Europe, and Japan. The initial list includes over 7,000 entries, and thousands more will be added as new designations of goods and services are agreed to by the offices.

GEOGRAPHICAL INDICATIONS (GIs)

GIs Video: The USPTO's Office of International Relations and the Foreign Agricultural Service (FAS) of the Department of Agriculture produced a video on the U.S. system for protecting GIs through our trademark system. FAS overseas posts will use the video to explain the U.S. position on GIs, and to offer an alternative to proposals to amend the WTO TRIPs Agreement. The video will be used in emerging foreign markets such as Argentina, Brazil, Bolivia, China, Chile, Colombia, Costa Rica, Cuba, Ecuador, Egypt, Guatemala, India, Indonesia, Mexico, Nigeria, Pakistan, Paraguay, Peru, Sri Lanka, Thailand, and Venezuela.

WTO GI Issues: The USPTO actively works on GI issues in the WTO TRIPs Council. Negotiations continue on establishing a multilateral system of notification and registration of GIs wines and spirits. The USPTO and other U.S. government agencies do not support establishing a multilateral system that treats GIs differently from trademarks and undermines the existing protection for trademark rights. Discussions also continue regarding extension of higher-level protection to products other than wine and spirits. The U.S. opposes amending the TRIPs Agreement to change the level of protection for all GI products, as there has not been any demonstration that existing protection is inadequate. Also, the topic of GIs continues to be included in the modalities on the WTO Agriculture negotiations where generic terms (i.e., parmesan, feta, chablis) would be considered intellectual property of a particular region. The USPTO continues to work on an inter-agency basis to ensure that the domestic and export interests of our trademark holders are not damaged.



Congressional staff members screened the geographical indications video produced last year by the USPTO and the Department of Agriculture.

Under Secretary Dudas meets with Chinese Vice Minister, Li Dongsheng, of the Chinese Trademark Office and Trademark Review and Adjudication Board during one of two visits he made last year to discuss counterfeiting, piracy and other intellectual property issues.



CHINA INITIATIVES

Consultations: The USPTO has been working extensively to improve the protection of intellectual property by Chinese authorities, especially by reducing piracy and counterfeiting activity in China. In fiscal year 2004, Under Secretary Dudas led delegations to China for consultations with senior officials at China's patent, trademark, copyright, and other IP agencies. The primary focus of these trips has been to further the Administration's goals of improving the intellectual property environment for U.S. rights holders in China. Issues addressed by the delegations included the need for improved criminal, civil and administrative enforcement, and the need for protecting copyright over the Internet and China's accession to the WIPO Internet Treaties. Under Secretary Dudas also established a China IPR Team within the USPTO to lead the USPTO's efforts to improve the intellectual property environment in China. The USPTO also exchanged information and agreed to cooperate with China's intellectual property agencies on issues such as protection of industrial designs and pharmaceutical test data, promulgation of new trademark examination guidelines, and providing assistance on procedures for well-known mark examination in China. Many of these initiatives reflect the commitments made and procedures established when China's Vice Premier visited the United States in April 2004, to meet with Secretary Evans and USTR Robert Zoellick, as part of the U.S.-China Joint Commission on Commerce and Trade (JCCT). The USPTO, along with the USTR, is chairing the JCCT Intellectual Property Rights Working Group established in the 2004 JCCT process.

Attaché Posting: In September 2004, a USPTO attorney-advisor was appointed intellectual property attaché to the U.S. Embassy in China and will work with government officials to improve Chinese intellectual property laws, regulations and enforcement procedures. This is the first time that the USPTO has placed an official overseas for the purpose of improving intellectual property protection in a specific country. The assignment fulfills a recommendation in the Department of Commerce report, "Manufacturing in America," to place a USPTO official in China to provide in-country support to curb intellectual property crime and strengthen enforcement.

CONGRESSIONAL ACTIVITY

Testimony: Under Secretary Dudas testified regarding the USPTO international intellectual property efforts before the Senate Judiciary Committee at a hearing on "Counterfeiting and Theft of Tangible Intellectual Property: Challenges and Solutions" and a hearing held by the Senate Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia on "Pirates of the 21st Century: The Curse of the Black Market." Under Secretary Dudas also provided testimony on USPTO's domestic and international intellectual property efforts before the House Appropriations Subcommittee on Commerce, Justice, State and the Judiciary.

USPTO Commissioner for Patents Godici provided testimony to the Senate Finance Committee on business method patents at a hearing titled "Bridging the Tax Gap" and USPTO General Counsel Toupin testified before the House Judiciary Subcommittee on Courts, the Internet and Intellectual Property at an oversight hearing on "Patent Quality Improvement: Post-Grant Opposition." USPTO Chief Financial Officer and Chief Administrator Barnard testified before the House Committee on Government Reform on the issue of "Achieving Diversity in the Senior Executive Service."

Patent and Trademark Fee Modernization: H.R. 1561, the "United States Patent and Trademark Fee Modernization Act of 2004," was passed by the House and approved by the Senate Judiciary Committee. Fee-related elements of the bill were included in a fiscal year 2005 Appropriations bill for Commerce-Justice-State approved by the Senate Appropriations Committee. The bill, as introduced, would revise the patent and trademark fee schedule to reflect more accurately the costs of the services provided by the USPTO and allow the USPTO to generate the income necessary to implement the initiatives of its *21st Century Strategic Plan*.

Report to Congress: Section 4606 of the "Optional *Inter Partes* Reexamination Procedure Act of 1999" includes the requirement that the USPTO submit to the Congress, within five years of the 1999 enactment, a report evaluating whether the *inter partes* reexamination proceedings established by the Act are "inequitable to any of the parties in interest." If inequity is determined to exist, the USPTO's report must then contain "recommendations for changes... to remove such inequity." In gathering input for consideration in preparing the report, the USPTO held a round table discussion on February 17, 2004, and solicited comments from interested parties in a Federal Register notice. The final report will be delivered to Congress in November 2004.

INTELLECTUAL PROPERTY POLICY DEVELOPMENTS AND DOMESTIC LITIGATION

LITIGATION

Under 35 United States Code (U.S.C.) § 2, the Under Secretary of Commerce for Intellectual Property and Director of the USPTO advises the President and other agencies on Intellectual Property (IP) policy, both domestic and international. For example, in domestic litigation, in addition to defending cases in which the USPTO is sued for decisions it has rendered, the USPTO advises the Solicitor General of the United States on intellectual property matters before the Supreme Court. In fiscal year 2004, the USPTO assisted the Solicitor General in formulating the United States' position before the Supreme Court in the important trademark case *KP Permanent Make-Up, Inc. v. Lasting Impressions, Inc.*, (Case No. 03-0409). In *KP Permanent*, the Supreme Court will address for the first time whether the Lanham Act's fair use defense to trademark infringement requires the party asserting the defense to demonstrate an absence of likelihood of confusion as an element of the defense. The USPTO assisted the Solicitor General's Office on the government's brief, and also assisted in the preparation for the government's participation in the oral argument held on October 5, 2004.

In addition to the USPTO's amicus work before the Supreme Court, the Court of Appeals for the Federal Circuit has specifically invited the USPTO to participate as an *amicus curiae* in an *en banc* case involving critical patent policy issues. In *Phillips v. AWH Corp.*, (Case No. 03-1269, -1286), the Federal Circuit asked the USPTO to brief the proper role of technical dictionaries and the specification in claim construction, which is a core issue in both patent application prosecution and patent infringement litigation. With support of the Department of Justice and the Federal Trade Commission, the USPTO filed an *amicus curiae* brief in August 2004.

The USPTO also appeared as a party in several other important patent cases before the Federal Circuit. For example, in *In re Zary*, and *In re Elsner*, --- F.3d ----, (Fed. Cir. 2004), the USPTO argued that foreign sales activity could be used to show that a "printed publication" is enabled and, thus, a statutory bar to two plant patent applications. The Court adopted the USPTO's legal reasoning regarding printed publications, but vacated and remanded the case for further fact-finding. In another case concerning printed publications, *In re Klopfenstein*, 380 F.3d 1345 (Fed. Cir. 2004), the Federal Circuit upheld the rejection of patent claims under 35 U.S.C. § 102(b) because the inventors, by displaying the invention on poster boards at two scientific meetings attended by those of ordinary skill in the art, had disclosed the invention in a printed publication more than one year before the date of the patent application. In agreement with the USPTO, the Court held that the key inquiry in what constitutes a printed publication is whether or not the reference was publicly accessible.

MANAGEMENT CHALLENGES



Suzanne Rudzinski, Director, of the EPA's Transportation and Regional Programs presents to the USPTO's Tom Hellmer an award recognizing the USPTO as one of the best workplaces for commuters.

Shift in Complexity of Filings / Sustained Emphasis on Quality — The USPTO must address the challenges of rising workloads, the shift of applications from traditional arts to more complex technologies, and the reality that any limitations and delays placed on implementation of the *21st Century Strategic Plan* initiatives will delay some of the quality improvements and many efficiency gains projected in the Strategic Plan. Technology has become increasingly complex, and demands from the public for higher quality products and services have grown in importance.

Electronic Workplace — The Patent and Trademark operations are rapidly moving to eliminate paper documents from their processes. As the reliance on paper disappears from internal processes, the costs for handling applications and related materials will be substantially reduced. Electronic communications will be improved, encouraging more applicants to do business electronically with the delivery of web-based text and image systems. Both Patent and Trademark organizations have made significant progress in achieving the long-term goal to create an e-Government operation, and Trademark now relies exclusively on trademark data submitted or captured electronically to support examination, publish documents, and issue registrations. However, this increased reliance on electronic systems presents challenges in storage and maintenance of data recovery in the event of outage and keeping systems robust and adaptable to continuous improvement.

Multilateral and Bilateral Agreements — To streamline the intellectual property system and protections, the USPTO must consult with, and receive the support of, other intellectual property offices in structuring new bilateral and multilateral initiatives and agreements. Reaching bilateral and multilateral agreements will require all sides to openly communicate and compromise in support of a more global convergence of patent and trademark standards.

Sustained Funding Stream — The sustained demands for the USPTO products and services have created substantial workload challenges in the processing of patents and trademarks. The Congress, the owners of intellectual property, the interest groups, and the public-at-large have all told USPTO that it must address these challenges aggressively and promptly. Sufficient funding and implementation of The *21st Century Strategic Plan* initiatives and timeframes will address these challenges and will transform the USPTO into a quality driven, highly productive, and cost effective organization that will promote expansion of business opportunities, stimulate research and development, and expand U.S. businesses globally. Without this, the USPTO will not be able to make critical investments in human resources and technology necessary for developing and/or acquiring automated systems to move to a fully electronic operating environment, and improving pendency.

SPACE CONSOLIDATION - MOVE TO ALEXANDRIA, VIRGINIA

We can see the end to the long and arduous task of relocating employees to a consolidated campus in Alexandria, Virginia, while minimizing any adverse effects on employees, applicants and the public. Although the developer, LCOR, began relocation of site utilities and preliminary soil work for excavation in October 2001, it was not until December 19, 2001, when the GSA executed an amended and restated lease, that LCOR awarded a contract to Roy F. Weston, Inc., for excavation, and to Turner Construction for general construction. In fiscal year 2003, the interior space for the entire campus was planned, designed and put out for subcontractor bids to be awarded. With the aid of an exceptional government and development team, most phases of construction are currently either on or ahead of schedule. We occupied the first two buildings and the east garage in December 2003 and January 2004. The second phase of the move began in earnest in September, 2004 and will conclude in March, 2005 with full occupancy of the five interconnected buildings and two garages, each with a facade of townhouse offices.

We continue to face numerous logistical and operational challenges in executing the consolidation. Dual operations, including dual computer facilities, are required during the relocation because space will be delivered over a protracted period. Supporting employees and customers at geographically separate locations requires careful planning. The disruptions and downtime during the move must be minimized to avoid significant impact on productivity. However, the long-term benefit is a world-class facility with operational efficiencies and improved workspace allocation to accommodate our growing and changing workforce. This consolidation is expected to save over \$72 million over the 20-year term of the lease.

Preparing to cut the ribbon at the new USPTO Headquarters in Alexandria are: Stephen A. Perry, Administrator General Services Administration, Sen. John Warner, James E. Rogan, Former Under Secretary of the USPTO, Rep. James Moran, Samuel Bodman, Deputy Secretary of Commerce, and Mayor William D. Euille.



THE PRESIDENT'S MANAGEMENT AGENDA

COMMITMENT TO THE PRESIDENT'S MANAGEMENT AGENDA



SPTO is committed to the implementation of the PMA. This is evidenced by the progress made in improving the strategic management of human capital, competitive sourcing, improved financial performance, expanded e-Government, and budget and performance integration.

Strategic Management of Human Capital: The USPTO's *21st Century Strategic Plan*, together with the USPTO Strategic Workforce/Restructuring Plan, lay out an explicit workforce planning strategy that is linked to the Agency's strategic and program planning efforts. The Agency has projected its current and future human capital needs, including the size of the workforce and its deployment across the organization; and has identified key competencies needed to fulfill the agency's mission and strategic goals. The *21st Century Strategic Plan* and the USPTO Strategic Workforce/Restructuring Plan demonstrate that the USPTO is focused on building competencies in response to customer demands for enhanced quality. We have instituted a patent examiner certification program, including a certification examination. Testing is underway to ensure that patent examiners have the requisite knowledge and skills to be promoted to the GS-13 level and to be granted certification of legal competency. At the GS-13 level all patent examiners are expected to correctly perform all basic, advanced, and legal patent examining functions without any prior instructions and with only a cursory review of their work products by their supervisor. The Agency is leveraging competitive sourcing and e-Government to better manage time devoted to examination of patent and trademark applications. The USPTO has become a recognized leader in federal government telework programs, and has received numerous awards for its accomplishments in this regard. The Office was the recipient of the *2003 Mid-Atlantic Telecommuting Advisory Council's Best Company/ Organization for Teleworkers Award*, because of its leadership in telework policy, active promotion of telework programs, innovative use of technology, and its unique approach to teleworking. As a consequence of this recognized success, other federal agencies have sought our assistance in establishing their own telework programs. The *21st Century Strategic Plan* also views workforce planning from an international perspective, and incorporates how work sharing can have an impact on USPTO's human capital planning and management. In addition, the USPTO's current organizational structure supports decision-making at the lowest appropriate level.

Competitive Sourcing: We will achieve performance enhancements and cost-savings through competitive sourcing. In this regard, we have already competitively sourced many functions, such as payroll, mail processing/handling, clerical support, data transcription, systems maintenance and development, help desk support, etc. In particular, service contracts have presented an excellent opportunity to help us deal with fluctuating workloads and to minimize the impact on our employees as the Agency transitions to a fully electronic workplace. Currently, approximately 35 percent of the USPTO's total workforce consists of contract personnel working either onsite or offsite at contractor facilities. The *21st Century Strategic Plan* offers new approaches for performing work that is currently accomplished by federal employees. While preserving the inherently governmental responsibility for examination, the USPTO is committed to increasing total patent examiner output by competitively sourcing prior art searches, classification of patent documents, and performance of administrative reviews associated with the PCT process. All decisions regarding patentability will remain the responsibility of patent examiners who are USPTO employees. The USPTO has a competitive sourcing plan and will be announcing competitions in fiscal year 2005 depending on the ultimate enactment date of the fee legislation. The USPTO also made strides in performance-based services acquisition and, as a result, was awarded the government-wide Excellence in Performance-Based Services Acquisition Award sponsored by the GSA and the Performance Institute in fiscal year 2004.



Anne Chasser, Former Commissioner for Trademarks (left) accepts the "Best Organization for Teleworkers" award from Pam Tucker, President of the Mid-Atlantic Telework Advisory Council (right).

Improved Financial Performance: Again, in fiscal year 2004, the USPTO is in compliance with all federal accounting principles and standards and has encountered no instances of material weaknesses in internal controls or non-compliance with financial related laws and regulations. We will continue to maintain and strengthen our internal controls and improve the timeliness and usefulness of our financial management information. In fact, for fiscal year 2004, the USPTO met all quarterly financial reporting requirements instituted by the Office of Management and Budget (OMB). Again, the USPTO sustained its clean audit opinion, with fiscal year 2004 marking the 12th consecutive unqualified audit opinion and the seventh consecutive year with no material weaknesses. The USPTO has a certified and accredited, fully integrated financial management system and uses a data warehouse to accommodate both financial and operational data. The data warehouse is used by managers for analyzing financial results and performance and by Supervisory Patent examiners for managing patent processing timeframes. The USPTO also operates a mature ABC system that captures costs of core mission activities and both direct and indirect costs for the entire USPTO. Managers use data from the ABC system to analyze the cost of operations when making decisions regarding improving processes, setting fees, or developing budget requirements.

E-Government: The USPTO is accelerating deployment of critical automated information systems, particularly the electronic end-to-end processing of patent and trademark applications. The USPTO successfully completed deployment of the patent IFW system in August, 2004, whereby 88 percent of patent applications are electronically processed, exceeding the goal to electronically manage 70 percent of patent applications. All incoming and outgoing paper documents are captured electronically in the system and the last remaining pending paper applications will be scanned into the system by the end of the first quarter of fiscal year 2005, with the electronic version of an application now considered the official file. In addition to IFW, the Patent organization no longer mails paper U.S. references to applicants, instead making the information available to applicants via the Internet. Additionally, for the first time, anyone with Internet access anywhere in the world can now use the USPTO's website (www.uspto.gov) to track the status of a public patent application as it moves from pre-grant publication to final disposition and review documents in the official application file, including all decisions made by patent examiners and their reasons for making them. The system, known as PAIR, offers the public an advanced electronic portal for PDF viewing, downloading and printing an array of information and documents for patent applications not covered by confidentiality laws. Public PAIR also offers a quick-click feature for ordering certified copies of patent applications and application files. In addition, the USPTO is currently working on ways to improve delivery schedules, reliability, performance, security, and monitoring the cost of its automated information systems.

The USPTO will implement the Trademark Information System, which is a trademark electronic file management system, by the end of fiscal year 2005. This completes a twelve-year effort to provide an end-to-end fully electronic trademark processing environment.

The USPTO chooses IT projects that best support its mission and comply with its enterprise architecture. Individual projects are evaluated in the broader context of technical alignment with other IT systems as well as the investment's impact to the USPTO IT portfolio's performance, as measured by cost, benefit, and risk. As part of the Capital Planning and Investment Control process, the USPTO prioritizes each investment and decides which projects will be funded in subsequent fiscal years. Once selected, each project is managed and monitored consistently throughout its life cycle. At key milestone dates, progress reviews are conducted to compare the project's status to planned benefit, cost, schedule technical efficiency, and effectiveness measures. All major IT system investments are included in fiscal year 2005 Exhibit 53 and Exhibit 300 business cases.

Budget and Performance Integration: Since fiscal year 1999, the USPTO has developed an annual corporate plan that links the annual performance plan and budget request such that resource requirements for continuing programs and new initiatives are aligned with outputs and performance goals. Subsequently, in June 2002, the USPTO introduced The *21st Century Strategic Plan* and an updated version of the plan in February 2003, in order to address issues raised by intellectual property stakeholders. The *21st Century Strategic Plan* is a five-year plan that identifies critical tasks designed to provide the USPTO and external stakeholders with a long-term vision of agency goals, potential funding levels, and planned outcomes. Since then, USPTO has refined its budget formulation process for better integration of budgetary resources with both enterprise-wide strategic goals and individual unit performance targets.

MANAGEMENT CONTROLS AND COMPLIANCE

WITH LAWS AND REGULATIONS

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his section provides information on the USPTO's compliance with the following legislative mandates:

- Federal Managers' Financial Integrity Act (FMFIA)
- Federal Information Security Management Act (FISMA)
- Inspector General (IG) Act Amendments
- Federal Financial Management Improvement Act (FFMIA)
- OMB Financial Management Indicators
- Prompt Payment Act
- Civil Monetary Penalty Act
- Debt Collection Improvement Act
- Biennial Review of Fees
- Improper Payments Information Act of 2002

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT

The FMFIA requires federal agencies to provide an annual statement of assurance regarding management controls and financial systems. The statement of assurance is provided in the Director's opening letter at the front of this Performance and Accountability Report. This statement was based on the review and consideration of a wide variety of evaluations, control assessments, internal analyses, reconciliations, reports, and other information, including the Department of Commerce OIG audits, and the independent public accountants' opinion on the USPTO's financial statements and their reports on internal control and compliance with laws and regulations. In addition, USPTO is not identified on the Government Accountability Office's (GAO) High Risk List related to controls governing various areas.

FEDERAL INFORMATION SECURITY MANAGEMENT ACT

In fiscal year 2002, none of our critical information systems had received certification and accreditation (C&A). At that time, OIG recommended declaration of a material weakness until the C&A had been completed for all mission critical and classified systems. During fiscal year 2003, the OIG reviewed the USPTO IT Security Program and reported substantial improvement over the previous year, with the Network Perimeter receiving full authority to operate (ATO) and the remaining mission critical and classified systems receiving an interim ATO.

While the OIG reflected this progress in its annual Federal Information Security Management Act review for the Department of Commerce¹, the report recommended that USPTO repeat its material weakness declaration in fiscal year 2003 until all mission critical and classified systems received full ATO.

In fiscal year 2004, we accomplished rigorous C&A in accordance with government standards for all mission-critical and classified systems and reduced the risks to a level sufficient for the Designated Approving Authorities to justify granting full ATO. With the last of these ATOs having been granted in March 2004, thereby removing the condition that previously compelled the USPTO to declare a material weakness, the USPTO no longer has a material weakness in its IT Security Program. In addition, all business-essential systems have completed C&A activities and achieved full accreditation with ATO in September 2004.

INSPECTOR GENERAL ACT AMENDMENTS

The Inspector General Act, as amended, requires semi-annual reporting on IG audits and related activities, as well as any requisite agency follow-up. The report is required to provide information on the overall progress on audit follow-up and internal management controls, statistics on audit reports with disallowed costs, and statistics on audit reports with funds put to better use. The USPTO did not have audit reports with disallowed costs or funds put to better use.

The USPTO's follow-up actions on audit findings and recommendations are essential to improving the effectiveness and efficiency of our programs and operations. As of September 30, 2004, while actions were being taken to address the findings, management had one recommendation outstanding on reports issued in fiscal year 2002 and prior. Also, action was taken to close one recommendation contained in the one audit report issued in fiscal year 2004. This audit report still has four recommendations remaining open. A summary of audit findings and recommendations follows.

¹ Independent Evaluation of the Department of Commerce's Information Security Program Under the Federal Information Security Management Act, Final Inspection Report No. OSE-16146, Sep 2003.

STATUS OF IG ACT AMENDMENTS AUDIT RECOMMENDATIONS <i>as of September 30, 2004</i>				
Report for Fiscal Year	Status	Recommendation	Action Plan	Completion Date
FY 2001	Closed	To improve overall personnel operations regarding the clearing of backlogged personnel actions forms and strengthening internal controls over the Official Personnel Files (OPF).	A quarterly review began 10/1/02. All missing SF-50s have been printed for all on-site OPFs. OPFs that are currently signed out by others in the USPTO organization will be audited as they are returned over the next fiscal year.	April 2004
FY 2001	Open	Coordinate training in international intellectual property law enforcement and provide clarification of the Council's role to the other agencies involved.	One additional full-time equivalent was hired in August 2003. When the action plan was developed several years ago, it was envisioned that the enforcement staff levels would increase significantly.	Estimated January 2005
FY 2002	Closed	Reexamine the recruiting process to determine whether recruiting techniques can be developed to better identify those applicants most suited, and those not suited, for the patent examination process.	The partnership with the US Office of Personnel Management (OPM) to conduct a study to determine if we can develop patent examiner candidate characteristic and a series of questions for use as a recruiting tool has been delayed due to uncertainty in our budget and patent examiner hiring levels. However, as an interim measure, before candidates for examiner positions are appointed, designated certifying officials in each Technology Center assess the communication skills of applicants through oral interviews and review of the writing sample submitted via the on-line application.	June 2004
FY 2002	Closed	Reexamine the recruiting process to better inform patent examiner applicants about the nature of USPTO's production-oriented work environment.	A website dedicated to patent examiner recruitment was completed in August 2004. The website features information on the USPTO, the skill sets necessary for the positions of patent examiner, job opportunities, and linkage to an on-line application, which includes submission of a sample written communication. A revised recruitment CD, with upgraded information and new soundbytes, was also completed in August 2004."	August 2004
FY 2004	Open	Ensure that the USPTO works with the Department of Commerce and OPM to officially obtain delegated examining authority.	The USPTO has coordinated with the Department of Commerce to request that OPM grant us formal delegated examining authority status.	Estimated November 2004
FY 2004	Open	Ensure that the USPTO develops Office of Human Resources (OHR) organizational descriptions, policies, and procedures, in accordance with the intent of DDO 10-14.	The USPTO is now in the process of updating all our OHR policies, operating procedures, and processes. We have also developed the OHR Policy Document Control system to track and maintain our policies and procedures.	Estimated June 2005
FY 2004	Open	Ensure that the OHR staff using the automated staffing system comply with federal personnel regulations and the VEOA.	The OHR is putting measures in place to ensure that our staff is trained on the automated staffing system and that appropriate safeguards are in place to ensure that we are in compliance with all legal and regulatory requirements.	Estimated December 2004
FY 2004	Closed	Ensure that the OHR Director position, as described, be properly classified.	The Director of OHR position is classified as a GS-201-15, and we have advertised the position accordingly.	September 2004
FY 2004	Open	Ensure that the OHR staff possess the expertise and receive the training necessary to accomplish their assigned duties.	The OHR is putting into place a framework that will ensure that all staff members receive the necessary training to accomplish their assigned duties, to include counseling employees on strengths and weaknesses, developing an Individual Development Plan for each employee that will set forth how skill gaps will be filled, and providing both in-house and third-party training opportunities to address skill gaps.	Estimated March 2005

FEDERAL FINANCIAL MANAGEMENT IMPROVEMENT ACT

The FFMIA requires federal agencies to report an agency's substantial compliance with federal financial management system requirements, Federal accounting standards, and the U.S. Government Standard General Ledger. The USPTO complied substantially with the FFMIA for fiscal year 2004.

OMB FINANCIAL MANAGEMENT INDICATORS

The OMB prescribes the use of quantitative indicators to monitor improvements in financial management. The USPTO tracks other financial performance measures as well. The table below shows the USPTO's performance during fiscal year 2004 against performance targets established internally and by OMB:

Financial Performance Measure	FY 2004 Target	FY 2004 Performance
Percentage of Timely Vendor Payments (OMB)	95%	98%
Percentage of Payroll by Electronic Transfer (OMB)	90%	99%
Percentage of Treasury Agency Locations Fully Reconciled (OMB)	95%	100%
Timely Reports to Central Agencies (OMB)	95%	100%
Audit Opinion on FY 2004 Financial Statements (OMB)	Unqualified	Unqualified
Material Weaknesses Reported by OIG (OMB)	None	None
Timely Posting of Inter-Agency Charges (USPTO)	30 days	26 days
Average Processing Time for Travel Payments (USPTO)	8 days	8 days

PROMPT PAYMENT ACT

The Prompt Payment Act requires federal agencies to report on their efforts to make timely payments to vendors, including interest penalties for late payments. The USPTO's performance continues to exceed the government-wide goal of 95 percent of payments on time. In fiscal year 2004, the USPTO did not pay interest penalties on 98.2 percent of the 9,015 vendor invoices processed, representing payments of approximately \$442.1 million. Of the 362 invoices that were not processed in a timely manner, the USPTO was required to pay interest penalties on 161 invoices, and was not required to pay interest penalties on 201 invoices, where the interest was calculated at less than \$1. The USPTO paid only \$49 in interest penalties for every million dollars disbursed in fiscal year 2004. Virtually all recurring payments were processed by electronic funds transfer (EFT) in accordance with the EFT provisions of the Debt Collection Improvement Act of 1996.

CIVIL MONETARY PENALTY ACT

There were no Civil Monetary Penalties assessed by the USPTO during fiscal year 2004.

DEBT COLLECTION IMPROVEMENT ACT

The Debt Collection Improvement Act prescribes standards for the administrative collection, compromise, suspension, and termination of federal agency collection actions, and referral to the proper agency for litigation. Although the Act has no material effect on the USPTO since it operates with minimal delinquent debt, all debt more than 180 days old has been transferred to the U.S. Department of the Treasury for cross-servicing.

BIENNIAL REVIEW OF FEES

The Chief Financial Officers Act of 1990 requires a biennial review of agency fees, rents, and other charges imposed for services and things of value it provides to specific beneficiaries as opposed to the American public in general. The objective of the review is to identify such activities and to begin charging fees, where permitted by law, and to periodically adjust existing fees to reflect current costs or market value so as to minimize general taxpayer subsidy of specialized services or things of value (such as rights or privileges) provided directly to identifiable non-federal beneficiaries. The USPTO is a fully fee-funded agency. For non-legislative fees, it uses ABC accounting to evaluate the costs of activities and determine if fees are set appropriately. When necessary, fees are adjusted to be consistent with the program and with the legislative requirement to recover full cost of the goods or services provided to the public.

IMPROPER PAYMENTS INFORMATION ACT OF 2002

During fiscal year 2004, the USPTO did not have any erroneous payments that exceeded the ten million dollar threshold. While our erroneous payments were only 0.04 percent of total disbursements and primarily related to inaccurate banking information, we plan to further reduce this percentage through our use of a government-wide Central Contractor Registration database maintained by the Department of Defense, which requires all government contractors to maintain current contact and banking information. The USPTO identifies erroneous payments by reviewing (1) credit memos and refund checks issued by vendors or customers, (2) undelivered electronic payments returned by financial institutions, (3) NFC payroll error reports, and (4) by ensuring the accuracy of all personnel actions transmitted to NFC.

Improper Payment Reduction Outlook (<i>Dollars in millions</i>)						
Program	FY 2004 Outlays	FY 2004 Improper Payment Percent	FY 2004 Improper Payment Dollars	FY 2005 Improper Payment Percent	FY 2006 Improper Payment Percent	FY 2007 Improper Payment Percent
Patent	\$ 1,109	0.03%	\$ 0.42	0.00%	0.00%	0.00%
Trademark	137	0.01%	0.05	0.00%	0.00%	0.00%
Total	\$ 1,247	0.04%	\$ 0.47	0.00%	0.00%	0.00%

FINANCIAL HIGHLIGHTS

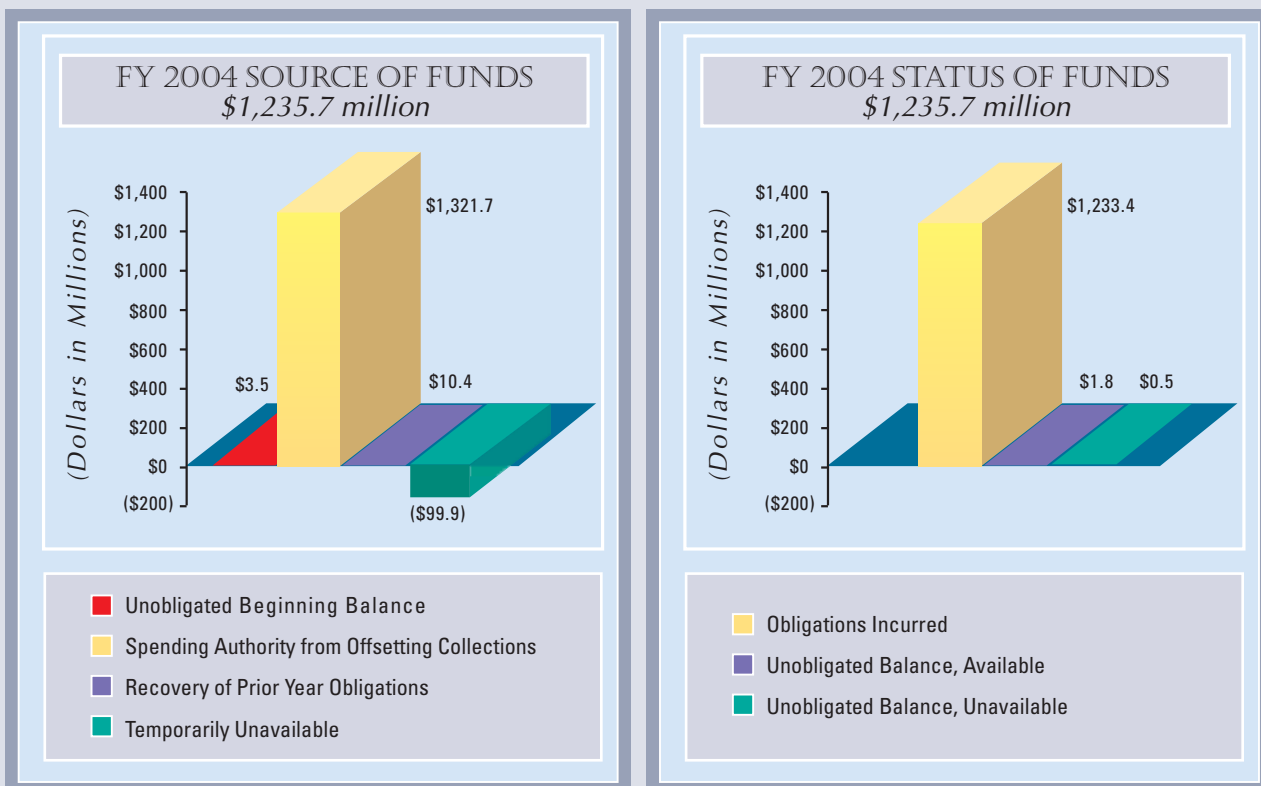
The USPTO is a self-sufficient federal agency that funds the cost of its operations through product and service fees paid by its customers – applicants for and owners of patents and trademarks, and the general public. Over 75 percent of Patent and Trademark fees are set by statute. The USPTO uses ABC techniques to report costs incurred for operations. This information is used to establish non-statutory fees for products and services at an amount that recovers full costs. The ABC data is also one of many factors considered when determining statutory fee amounts.

The following presents the USPTO’s fiscal year 2004 financial highlights with regard to budgetary resources and requirements, along with results of operations. Details behind these highlights are included in the discussion of the USPTO’s financial statements beginning on page 59.

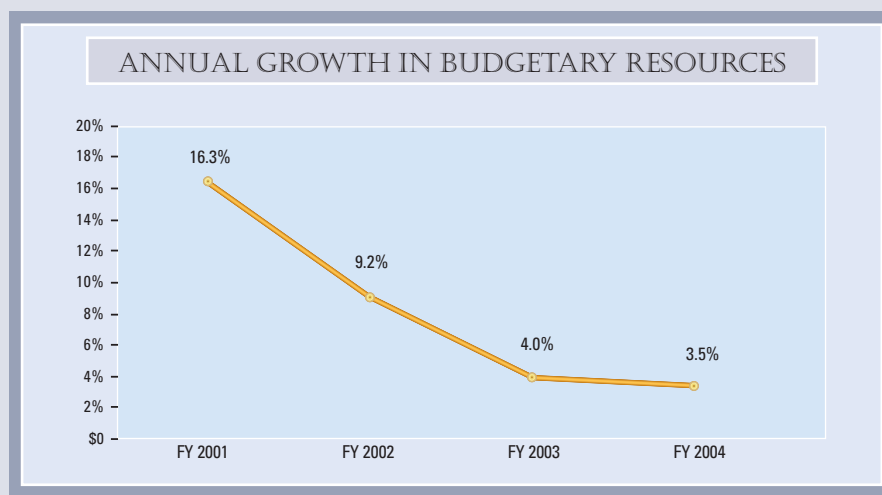
BUDGETARY RESOURCES AND REQUIREMENTS

Total budgetary resources available for spending are primarily comprised of Congressional authority to spend current year fee collections, as well as fees collected in a prior year that were previously temporarily unavailable. Temporarily unavailable fee collections occur when the Congress does not provide appropriation authority for the USPTO to spend all fees collected during a given fiscal year.

The following charts present the source of funds made available to the USPTO, and the use of such funds.



During fiscal year 2004, total budgetary resources available for spending increased 3.5 percent over the amount available in the preceding year. This modest increase continues the slow growth in budgetary resources available for use, as depicted by the graph below.



The slow growth in total budgetary resources available for spending has had, and continues to have, an impact on the USPTO operations which has resulted in slower implementation of the *21st Century Strategic Plan* and the PMA, including hampering the USPTO's ability to make critical investments in resources and technology necessary for developing and/or acquiring automated systems to move to a fully electronic operating environment, and improve pendency. The slow growth in total budgetary resources continues to affect the USPTO's ability to keep pace with the growing number of applications.

RESULTS OF OPERATIONS

The slow growth in total budgetary resources available for use has had a direct impact on the gross costs of USPTO operations. Gross cost of operations increased 11.6 percent and 14.2 percent in fiscal years 2001 and 2002 respectively, but only increased 6.9 percent in fiscal year 2004.

Due to the increase in pendency, the time it takes to process a patent or trademark, the USPTO has been recognizing a steadily increasing deferred revenue liability for fees received prior to the revenue being earned. From fiscal year 2001 through fiscal year 2004, patent unearned fees increased 50.7 percent, with only a 10.3 percent increase from fiscal year 2003 to fiscal year 2004. In fiscal year 2004, for each month that patent pendency to first action increased, deferred revenue increased approximately \$26.2 million, with a corresponding decrease in earned revenue. From fiscal year 2001 through fiscal year 2004, trademark unearned fees increased \$38.8 million, primarily due to a change in the methodology used to calculate deferred revenue. In the future, in order to reduce the backlog of unprocessed applications and reduce pendency, additional budgetary resources will be required.

FINANCIAL STATEMENTS

The USPTO received an unqualified (clean) audit opinion from the independent public accounting firm of KPMG LLP on its fiscal year 2004 financial statements, provided on pages 71 to 94. This is the twelfth consecutive year that the USPTO received a clean opinion. This record of unqualified audit opinions provides independent assurance to the public that the information presented in the USPTO financial statements is fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America. In addition, KPMG LLP reported no material weaknesses or reportable conditions in the USPTO's internal control over financial reporting, and no instances of non-compliance with laws and regulations affecting the financial statements.

The USPTO financial statements ensure that management decision making information is dependable, internal controls over financial reporting are effective, and that compliance with laws and regulations is maintained. The preparation of these statements is a component of the USPTO goal to continually improve the accuracy and utility of its financial management tools.

The following sections provide a discussion and analysis of the financial statements and related information.

STATEMENT OF BUDGETARY RESOURCES

The following table displays the USPTO's total budgetary resources available for spending over the past four years, with the related percentage change. The resources available for spending do not include amounts that were not available for spending through September 30, 2004, but will become available for spending on October 1, 2004 once apportioned by the OMB.

Budgetary Resources Available for Spending (Dollars in Millions)	FY 2001	FY 2002	FY 2003	FY 2004
Budgetary Resources Available for Spending	\$ 1,049.8	\$ 1,146.7	\$ 1,193.0	\$ 1,235.2
Percentage Change	16.3%	9.2%	4.0%	3.5%

As evident from the above table, total budgetary resources available for spending have been increasing in terms of dollars, but the rate of increase has been steadily declining.

The declining trend in available budgetary resources has resulted in:

- Slower than planned implementation of the *21st Century Strategic Plan* and the PMA; and
- Slower than planned implementation of the USPTO's goal of enhancing quality and minimizing processing time due to the relationship between sufficient human resources required to reduce the backlog of unprocessed applications and the ever-increasing workload of new applications, which are increasingly more complex.

As defined earlier, temporarily unavailable fee collections occur when the USPTO is not appropriated the authority to spend all fees collected during a given year. In fiscal year 2004, the USPTO was appropriated \$1,222.5 million for fees collected during fiscal year 2004. During fiscal year 2004, the USPTO collected \$1,321.0 million, leaving \$98.5 million that was not available for spending.

During fiscal years 1999, 2000, and 2002, \$75.6 million in fees were considered permanently rescinded. In fiscal year 2004, the OMB addressed the classification of rescissions and clarified that rescissions are considered reductions in budgetary resources and can be either permanent or temporary. Due to the clarification regarding rescissions and reductions, fee resources previously rescinded permanently were restored to the USPTO and recorded as a reduction and as temporarily unavailable fee collections.

While the USPTO began the fiscal year with an unobligated balance of \$3.5 million, \$1.4 million of this carryover amount was rescinded and resulted in a temporarily unavailable reduction of budgetary resources.

Considering the \$341.0 million in temporarily unavailable fee collections at the beginning of fiscal year 2004, the \$98.5 million not available for spending in fiscal year 2004 and the two reductions, the total temporarily unavailable fee collections at the end of fiscal year 2004 are \$516.5 million.

The table below illustrates amounts that Congress has appropriated to the USPTO over the past four fiscal years, as well as the cumulative restricted fee collections.

Temporary Unavailable Fee Collections (Dollars in Millions)	FY 2001	FY 2002	FY 2003	FY 2004
Current year fee collections	\$ 1,084.7	\$ 1,150.8	\$ 1,193.7	\$ 1,321.0
Current year collections appropriated	(783.8)	(843.7)	(1,015.2)	(1,222.5)
Reductions - Rescissions Restored	-	(0.6)	-	77.0
Current year unavailable collections	\$ 300.9	\$ 306.5	\$ 178.5	\$ 175.5
Prior year collections unavailable	259.1	305.1	329.3	341.0
Prior year collections subsequently appropriated	(254.9)	(282.3)	(166.8)	-
Cumulative temporarily unavailable fee collections	<u>\$ 305.1</u>	<u>\$ 329.3</u>	<u>\$ 341.0</u>	<u>\$ 516.5</u>

In addition to these annual restrictions, certain USPTO collections of \$233.5 million were withheld and deposited in a special fund receipt account at the U.S. Department of the Treasury. These funds continue to be shown as revenue withheld in the USPTO's Balance Sheet.

The table on the following page shows the resources required to meet future financial responsibilities compared to the unavailable fee collections requiring appropriation authority. Liabilities not covered by budgetary resources are related to unearned fee collections and are measures of the commitments to customers for orders taken.

Future Resource Requirements (Dollars in Millions)	FY 2001	FY 2002	FY 2003	FY 2004
Liabilities not Covered by Resources	\$ 414.4	\$ 510.5	\$ 555.9	\$ 634.1
Fees Temporarily Unavailable	\$ 305.1	\$ 329.3	\$ 341.0	\$ 516.5
Revenue Withheld – Surcharge	233.5	233.5	233.5	233.5
Total Unavailable Fees	\$ 538.6	\$ 562.8	\$ 574.5	\$ 750.0

STATEMENT OF NET COST

The Statement of Net Cost presents the USPTO's results of operations by Patent and Trademark business areas. The following table presents the total results of operations for the past four fiscal years.

Net (Cost)/Income (Dollars in Millions)	FY 2001	FY 2002	FY 2003	FY 2004
Earned Revenue	\$1,040.2	\$ 1,061.4	\$ 1,162.3	\$ 1,239.0
Program Cost	(1,016.6)	(1,161.0)	(1,206.1)	(1,289.2)
Net (Cost)/Income	\$ 23.6	\$ (99.6)	\$ (43.8)	\$ (50.2)

The Statement of Net Cost compares fees earned to costs incurred during a specific period of time. It is not necessarily an indicator of net income or net cost over the life of a patent or trademark. Net income or net cost for the fiscal year is dependent upon the phases of work that have been completed. The net income calculation is based on fees earned during the fiscal year being reported, regardless of when those fees were collected. Maintenance fees play a large part in whether net income or net cost is recognized. Maintenance fees collected in fiscal year 2004 are a reflection of patent issue levels 3.5, 7.5, and 11.5 years ago, rather than a reflection of patents issued in fiscal year 2004. Therefore, maintenance fees can have a significant impact on matching costs and revenue. In addition, the Statement of Net Cost calculation looks at groups of work that begin and end the fiscal year in various phases of their life cycle.

During fiscal year 2001, the USPTO's operations generated a net income of \$23.6 million. In the following year, the significant increase in deferred revenue, combined with the significant increase in costs, resulted in a net cost rather than a net income. The fiscal year 2003 budget did not allow for significant cost increases, resulting in lower spending and a net cost of \$43.8 million for the year. The modest increase in budgetary resources for fiscal year 2004 necessitated continued restrictions over program cost increases, resulting in a net cost of \$50.2 million.

EARNED REVENUE

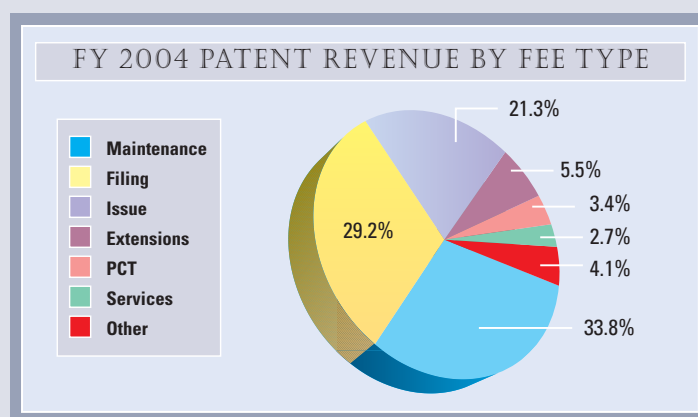
The USPTO's earned revenue is derived from the fees collected for patent and trademark products and services. Fee collections are recognized as earned revenue when the activities to complete the work associated with the fee are completed. The table on the next page presents the earned revenue for the past four years.

Earned Revenue (Dollars in Millions)	FY 2001	FY 2002	FY 2003	FY 2004
Patent	\$ 859.0	\$ 910.1	\$ 1,004.5	\$ 1,070.1
Trademark	181.2	151.3	157.8	168.9
Total Earned Revenue	\$ 1,040.2	\$ 1,061.4	\$ 1,162.3	\$ 1,239.0
Percentage Change in Earned Revenue	8.8%	2.0%	9.5%	6.6%

Earned revenue totaled \$1,239.0 million for fiscal year 2004, an increase of \$76.7 million, or 6.6 percent, over fiscal year 2003 earned revenue of \$1,162.3 million. Of revenue earned during fiscal year 2004, \$312.2 million related to fee collections deferred for fee recognition in prior fiscal years, \$384.8 million related to maintenance fees collected during fiscal year 2004, which were considered earned immediately, and \$542.0 million related to work performed for fees collected during fiscal year 2004.

Patent

Traditionally, the major components of earned revenue derived from patent operations are maintenance fees, filing fees, and issue fees. These fees account for over 80 percent of total patent income. The accompanying chart depicts the relationship among the most significant patent fee types.



Patent maintenance fees are the largest source of earned revenue, and as they are recognized immediately, any fluctuations in the rates of renewal have a significant impact on the total earned revenue of the USPTO. To some extent, renewals recoup costs incurred during the initial patent process. As shown below, the renewal rates for all three stages of maintenance fees have been increasing modestly over the last four years and there are indications that this growth pattern may continue.

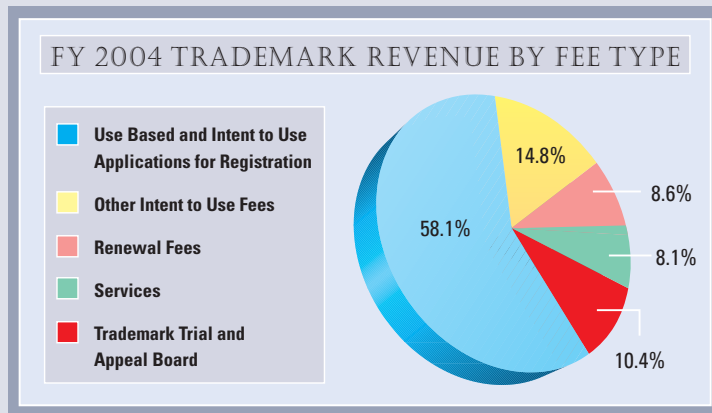
Patent Renewal Rates *	FY 2001	FY 2002	FY 2003	FY 2004
First Stage	84.5%	85.1%	86.8%	91.9%
Second Stage	59.9%	59.5%	61.1%	65.7%
Third Stage	39.1%	38.4%	42.9%	43.8%

* **Note:** the First Stage refers to the end of the 3rd year after the initial patent is issued; the Second Stage refers to the end of the 7th year after the initial patent is issued; and the Third Stage refers to the end of the 11th year after the initial patent is issued. For example, in FY 2004, 91.9 percent of the patents issued three years ago were renewed, 65.7 percent of the patents issued seven years ago were renewed, and 43.8 percent of the patents issued 11 years ago were renewed.

Trademark

Trademark fees are comprised of application filing, allegation of use, renewal services, and Trademark Trial and Appeal Board fees. Additional fees are charged for intent-to-use filed applications, as additional requirements must be met for registration.

Trademark registration can continue indefinitely if the registration is renewed. To some extent, renewal fees recoup costs incurred during the initial examination process. As shown below, the renewal rates for trademarks have remained fairly stable over the last four years, indicating continued revenue growth from this source.

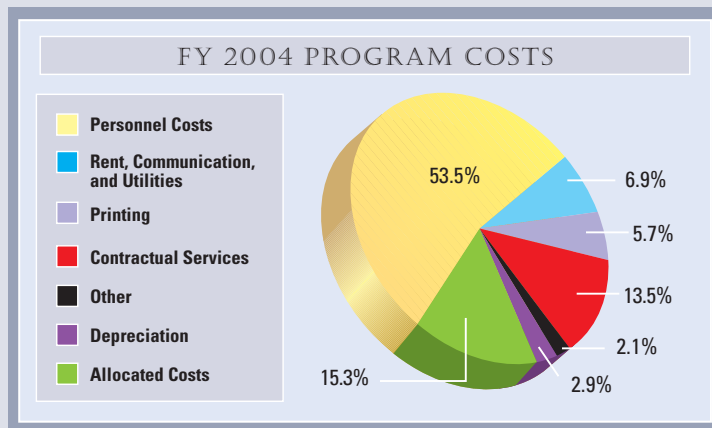


Trademark Renewal Rates *	FY 2001	FY 2002	FY 2003	FY 2004
Renewals	21.2%	25.2%	28.3%	25.8%

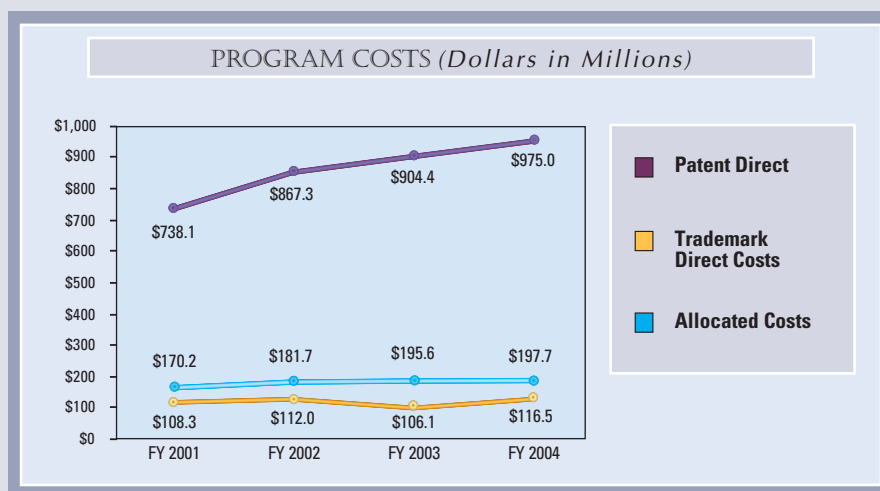
* Note: the renewals occur every 10th year for trademarks registered after November 15, 1989. For trademarks issued or renewed before November 15, 1989, renewal will occur after the 20th year and the renewal will be for a ten-year period.

PROGRAM COSTS

Program costs totaled \$1,289.2 million for the year ended September 30, 2004, an increase of \$83.1 million, or 6.9 percent, over fiscal year 2003 program costs of \$1,206.1 million. The USPTO's most significant program costs related to personnel services and benefits costs, which traditionally comprise over 50 percent of USPTO's total program costs. Any significant change or fluctuation in staffing or pay rate patterns directly impacts the change in total program costs from year to year. Total personnel services and benefits costs for the year ended September 30, 2004, were \$745.2 million, an increase of \$45.6 million, or 6.5 percent, over fiscal year 2003 personnel services and benefits costs of \$699.6 million. This change was a result of a 4.4 percent increase in the federal pay scale, combined with a net increase of 93 personnel, from 6,723 at the end of fiscal year 2003 to 6,816 at the end of fiscal year 2004.



Costs directly attributable to Patent and Trademark business areas represent 84.7 percent of total USPTO costs. The remaining costs, representing support costs, are allocated to the business areas using ABC accounting. Allocated costs have virtually remained at a constant percentage of total costs over the years, ranging from 16.7 percent in fiscal year 2001 to the current 15.3 percent.

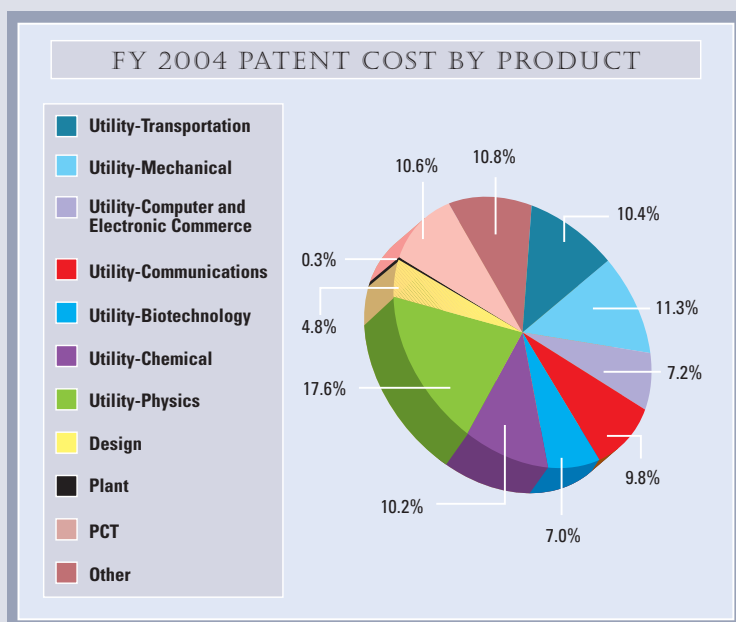


Patents

Total costs for the Patent business area increased from \$1,074.1 million in fiscal year 2003 to \$1,145.8 million for fiscal year 2004, representing an increase of 6.7 percent during the period. The following table presents the major components of Patent costs for the past four years.

Patent Costs (Dollars in Millions)	FY 2001	FY 2002	FY 2003	FY 2004
Personnel Costs	\$ 458.0	\$ 545.8	\$ 580.5	\$ 616.3
Contractual Services	103.6	125.0	127.0	151.7
Printing and Reproduction	53.0	65.3	72.7	71.8
Rent, Communications, and Utilities	54.3	63.7	66.0	79.6
Depreciation, Amortization, or Loss on Asset Disposition	38.6	41.9	37.2	32.9
Other	30.6	25.6	21.0	22.7
Direct Costs	738.1	867.3	904.4	975.0
Allocated Costs	144.4	155.0	169.7	170.8
Total Patent Costs	\$ 882.5	\$ 1,022.3	\$ 1,074.1	\$ 1,145.8
<i>Percentage Change in Patent Costs</i>	<i>13.0%</i>	<i>15.8%</i>	<i>5.1%</i>	<i>6.7%</i>

The most significant program costs relate to personnel services, and account for 60.1 percent of the increase in total costs of Patent operations during the past four years. Patent personnel costs for the year ended September 30, 2004, were \$616.3 million, an increase of \$35.8 million, or 6.2 percent, over fiscal year 2003 personnel costs of \$580.5 million. Rent, communications, and utilities, printing and reproduction, and contractual service costs represent 26.5 percent of the Patent program costs for fiscal year 2004. Over the last four years, these costs increased in line with the overall increase in total Patent costs due to additional rental costs for the new USPTO headquarters in Alexandria, Virginia, fluctuations on patents issued and printed, and IT maintenance and development.



Patent costs were spread over four main patent products: utility patents, design patents, plant patents, and PCT. The cost percentages presented at left are based on direct and indirect costs allocated to patent operations and are a function of the volume of applications processed in each product area.

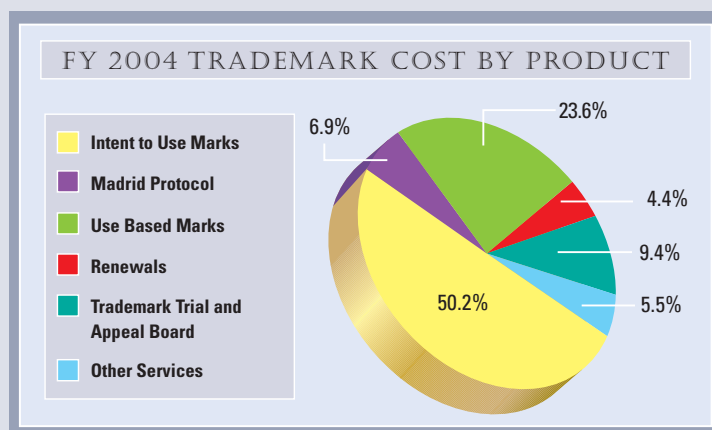
Trademark

Total costs for the Trademark business unit were largely unchanged over the past four years. The following table shows the major components of Trademark costs for that period.

Trademark Costs (Dollars in Millions)	FY 2001	FY 2002	FY 2003	FY 2004
Personnel Costs	\$ 74.3	\$ 74.4	\$ 67.1	\$ 74.0
Contractual Services	13.6	18.4	20.1	22.4
Printing and Reproduction	2.5	2.2	2.6	1.2
Rent, Communications, and Utilities	9.1	9.3	7.9	9.3
Depreciation, Amortization, or Loss on Asset Disposition	5.0	4.0	4.6	5.0
Other	3.8	3.7	3.8	4.6
Direct Costs	108.3	112.0	106.1	116.5
Allocated Costs	25.8	26.7	25.9	26.9
Total Trademark Costs	<u>\$ 134.1</u>	<u>\$ 138.7</u>	<u>\$ 132.0</u>	<u>\$ 143.4</u>
Percentage Change in Total Trademark Costs	3.1%	3.4%	(4.8)%	8.6%

The most significant program costs relate to personnel services, which represent more than 50 percent of Trademark cost of operations for each of the past four years. These costs have remained virtually constant over the past four years, with an overall decrease of \$0.3 million. Contractual services have increased \$8.8 million, which represents 94.6 percent of the increase in total trademark costs over the past four years, primarily related to the increase in scanning contracts as the USPTO moves to a fully electronic workplace.

The Intent to Use cost includes costs related to examining both the application and the additional intent to use disclosures. The overall cost percentages presented to the right are based on both direct costs and indirect costs allocated to trademark operations and are a function of the volume of applications processed in each product area.



BALANCE SHEET AND STATEMENT OF CHANGES IN NET POSITION

At the end of fiscal year 2004, the USPTO's consolidated Balance Sheet presents total assets of \$1,297.3 million, total liabilities of \$828.2 million, and a net position of \$469.1 million.

Total assets increased 21.0 percent over the last four years, resulting largely from the increase in Fund Balance with Treasury. The following table shows the changes in assets during this period.

Composition of USPTO Assets (Dollars in Millions)	FY 2001	FY 2002	FY 2003	FY 2004
Cash	\$ 11.5	\$ 9.3	\$ 11.4	\$ 11.9
Fund Balance with Treasury	923.4	926.1	985.6	1,135.2
Property and Equipment, Net	128.6	119.2	117.4	137.3
Accounts Receivable and Prepayments	9.1	40.9	37.1	12.9
Total Assets	<u>\$1,072.6</u>	<u>\$1,095.5</u>	<u>\$ 1,151.5</u>	<u>\$ 1,297.3</u>
Percentage Change in Total Assets	11.4%	2.1%	5.1%	12.7%

Fund Balance with Treasury is the single largest asset on the Balance Sheet and represents 87.5 percent of total assets at the end of fiscal year 2004. This asset is comprised of unpaid obligated funds of \$304.4 million, temporarily unavailable fees of \$516.5 million, \$233.5 million in surcharge fees, other funds that are held on deposit for customers of \$78.5 million, and unobligated funds of \$2.3 million.

The restricted funds and the temporarily unavailable funds require Congressional appropriation before they will be available for the USPTO's use. These funds, together with unobligated amounts and amounts already obligated, but not yet paid, represent 93.1 percent of the Fund Balance with Treasury.

The other major asset is property and equipment. While the net balance of this asset has increased by \$8.7 million during the past four years, budgetary constraints have affected spending. Although the USPTO incurred \$51.0 million for leasehold improvements at its consolidated headquarters in Alexandria, Virginia, significant amounts were not invested in other components of property and equipment. For example, while the overall acquisition value of IT equipment has decreased

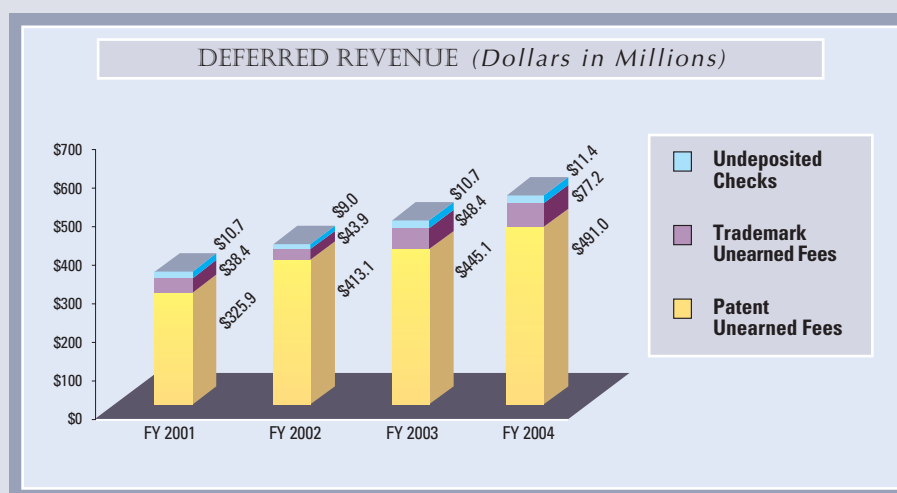
\$0.8 million over the past four years, the overall acquisition value of IT software and software in development increased \$52.2 million. These amounts illustrate how the USPTO has traded off spending in its IT equipment replacement program, falling behind planned computer and server replacement schedules, to enhance its existing IT e-Government capability in areas such as e-filing, application information retrieval, data and image capture, and web based search systems.

Total liabilities increased from \$748.3 million at the end of fiscal year 2003 to \$828.2 million at the end of fiscal year 2004, representing an increase of \$79.9 million, or 10.7 percent. The following table shows the change in liabilities during the past four years.

Composition of USPTO Liabilities (Dollars in Millions)	FY 2001	FY 2002	FY 2003	FY 2004
Deferred Revenue	\$ 375.0	\$ 466.0	\$ 504.2	\$ 579.6
Accounts Payable	61.0	74.7	80.1	77.3
Accrued Payroll, Leave, and Benefits	80.7	68.0	75.4	83.4
Customer Deposit Accounts	57.5	64.8	74.4	70.7
Other Liabilities	19.8	11.3	14.2	17.2
Total Liabilities	\$ 594.0	\$ 684.8	\$ 748.3	\$ 828.2
<i>Percentage Change in Total Liabilities</i>	<i>11.4%</i>	<i>15.3%</i>	<i>9.3%</i>	<i>10.7%</i>

The USPTO's deferred revenue is the largest liability on the Balance Sheet. The liability for deferred revenue is derived from a detailed calculation based on the process for completing each service provided. The percent incomplete is applied to the inventory of pending work to estimate the amount for deferred revenue liability.

At the end of fiscal year 2004, deferred revenue liability was \$579.6 million, representing an increase of \$204.6 million, or 54.6 percent, over the past four years. The deferred revenue liability includes unearned patent and trademark fees, as well as undeposited checks. The unearned patent fees represented 84.7 percent of this liability. The graph below depicts the composition of the deferred revenue liability, in addition to the increase in this liability during each of the past four years.



Deferred revenue at the USPTO is largely impacted by the change in patent and trademark filings and changes in the first action pendency rates. The following table depicts the changes in the filings and pendencies during the past four years.

Filings and Pendencies	FY 2001	FY 2002	FY 2003	FY 2004
Patent Filings	344,717	353,394	355,418	376,810 ¹
Percentage Change in Patent Filings	10.6%	2.5%	0.6%	6.0%
Patent First Action Pendency (months)	14.4	16.7	18.3	20.2
Total Patent Pendency (months)	24.7	24.0	26.7	27.6
Trademark Filings	296,388	258,873	267,218	298,489
Percentage Change in Trademark Filings	(21.1%)	(12.7%)	3.2%	11.7%
Trademark First Action Pendency (months)	2.7	4.3	5.4	6.6
Total Trademark Pendency (months)	17.8	19.9	19.8	19.5

¹ Preliminary data

The Statement of Changes in Net Position presents the changes in the financial position of the USPTO due to results of operations and unexpended appropriations. The major components of the movement in net position are the net income or net cost for the year, and the imputed financing of post retirement costs for the USPTO employees. The change in the net position during the past four years is presented in the following table.

USPTO Net Position (Dollars in Millions)	FY 2001	FY 2002	FY 2003	FY 2004
Net Position	\$ 478.6	\$ 410.7	\$ 403.2	\$ 469.1
Percentage Change in Net Position	11.4%	(14.2)%	(1.8)%	16.3%

The increase in net position from \$403.2 million at the end of fiscal year 2003 to \$469.1 million at the end of fiscal year 2004, or 16.3 percent, is attributable largely to the permanent rescission restored to a temporarily unavailable reduction in budgetary resources, offset by the results of operations.

LIMITATIONS

The USPTO has prepared its fiscal year 2004 financial statements in accordance with the requirements of OMB Bulletin Number 01-09, *Form and Content of Agency Financial Statements*, and guidance provided by the Department of Commerce. OMB Bulletin Number 01-09 incorporates the concepts and standards contained in the Statements of Federal Financial Accounting Concepts (SFFAC) and the Statements of Federal Financial Accounting Standards (SFFAS) recommended by the Federal Accounting Standards Advisory Board (FASAB) and approved by the Secretary of the Treasury, the Director of the OMB, and the Comptroller General.

On October 19, 1999, the American Institute of Certified Public Accountants Council designated the FASAB as the accounting standards-setting body for federal government entities. Therefore, the SFFAS constitute accounting principles generally accepted in the United States (GAAP) for the federal government. These concepts and standards have been set by FASAB

to help federal agencies comply with the requirements of the *Chief Financial Officers' Act of 1990*, as amended by the *Government Management Reform Act of 1994*. These two Acts demand financial accountability from federal agencies and require the integration of accounting, financial management, and cost accounting systems.

The financial data in this report and the financial statements that follow have been prepared from the accounting records of the USPTO in conformity with GAAP. The USPTO's financial statements consist of the Balance Sheet, the Statement of Net Cost, the Statement of Changes in Net Position, the Statement of Budgetary Resources, the Statement of Financing, and the Statement of Cash Flows. The financial statements were prepared pursuant to the requirements of 31 (United States Code) U.S.C. 3515 (b). The following limitations apply to the preparation of the financial statements:

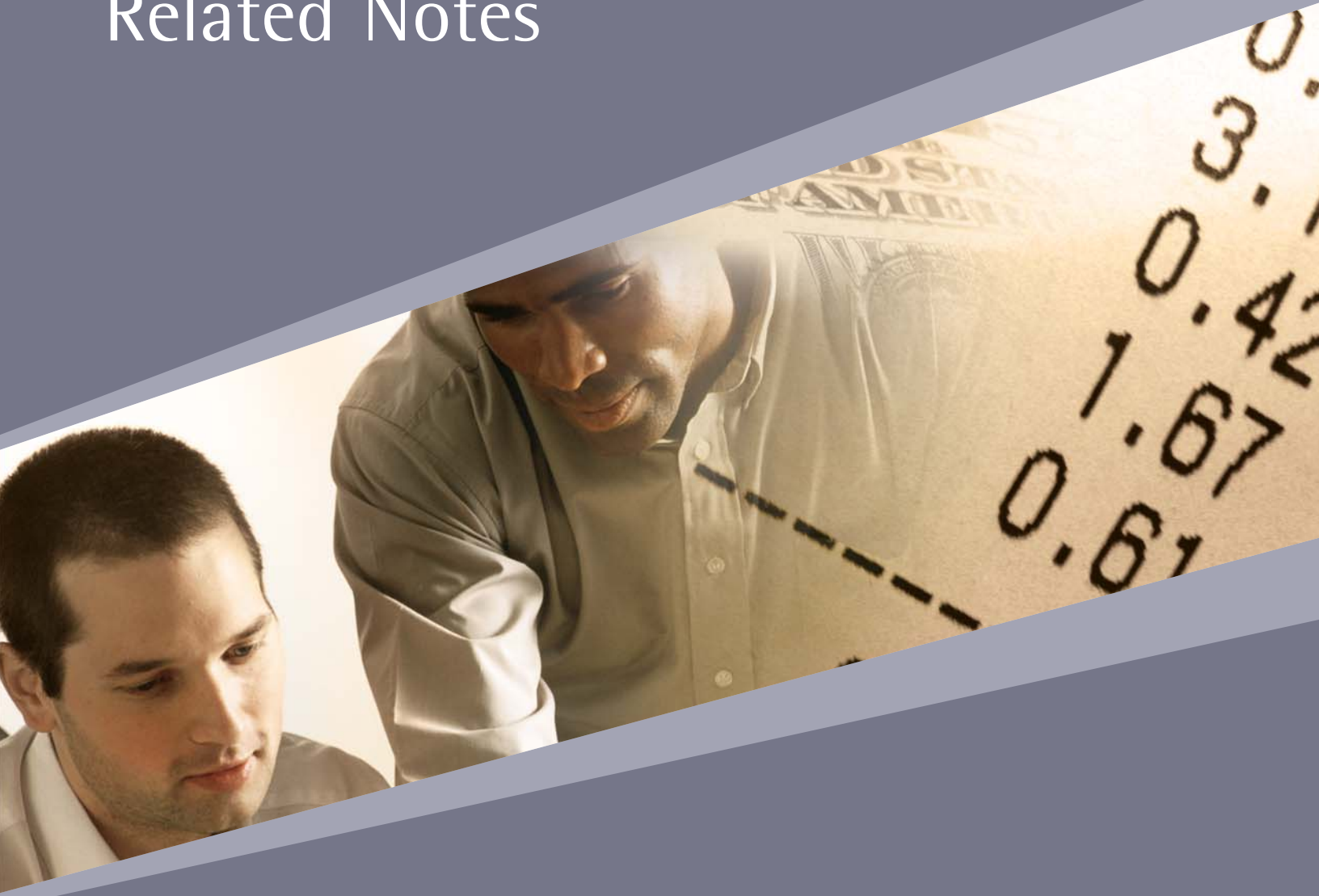
- While the statements are prepared from books and records in accordance with the formats prescribed by the OMB, the statements are in addition to the financial reports used to monitor and control budgetary resources, which are prepared from the same books and records.
- The statements should be read with the realization that the USPTO is a component of the U.S. Government, a sovereign entity. One implication is that unfunded liabilities cannot be liquidated without legislation that provides resources to do so.

In addition, certain information contained in this financial discussion and analysis and in other parts of this Performance and Accountability Report may be deemed forward-looking statements regarding events and financial trends that may affect future operating results and financial position. Such statements may be identified by words such as "estimate," "project," "plan," "intend," "believe," "expect," "anticipate," or variations or negatives thereof or by similar or comparable words or phrases. Prospective statements are subject to risks and uncertainties that could cause actual results to differ materially from those expressed in the statements. Such risks and uncertainties include, but are not limited to, the following: changes in U.S. or international intellectual property laws; changes in U.S. or global economic conditions; the availability, hiring and retention of qualified staff employees; management of patent and trademark growth; government regulations; disputes with labor organizations; and deployment of new technologies. The USPTO undertakes no obligation to publicly update these financial statements to reflect events or circumstances after the date hereof, or to reflect the occurrence of unanticipated events.

MANAGEMENT RESPONSIBILITIES

USPTO management is responsible for the fair presentation of information contained in the principal financial statements, in conformity with GAAP, the requirements of OMB Bulletin Number 01-09, and guidance provided by the Department of Commerce. Management is also responsible for the fair presentation of the USPTO's performance measures in accordance with the OMB requirements. The quality of the USPTO's internal control rests with management, as does the responsibility for identifying and complying with pertinent laws and regulations.

Basic Financial Statements and Related Notes



U.S. PATENT AND TRADEMARK OFFICE CONSOLIDATED BALANCE SHEETS

As of September 30, 2004 and 2003

(Dollars in Thousands)	2004	2003
ASSETS		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 1,135,268	\$ 985,586
Accounts Receivable	35	-
Advances and Prepayments	6,370	24,248
Total Intragovernmental	1,141,673	1,009,834
Cash	11,871	11,454
Accounts Receivable, Net	1,303	8,891
Advances and Prepayments	5,162	3,982
Property and Equipment, Net (Note 4)	137,303	117,365
Total Assets	\$ 1,297,312	\$ 1,151,526
LIABILITIES		
Intragovernmental:		
Accounts Payable	\$ 2,220	\$ 3,514
Accrued Payroll and Benefits	4,108	2,892
Accrued Postemployment Compensation	1,522	1,569
Customer Deposit Accounts (Note 3)	3,906	3,266
Total Intragovernmental	11,756	11,241
Accounts Payable	75,067	76,610
Accrued Payroll and Benefits	40,365	34,515
Accrued Leave	38,935	38,046
Customer Deposit Accounts (Note 3)	66,863	71,141
Patent Cooperation Treaty Account (Note 3)	8,195	6,109
Deferred Revenue (Note 6)	579,596	504,193
Actuarial Liability (Note 7)	7,484	6,494
Total Liabilities (Note 5)	\$ 828,261	\$ 748,349
NET POSITION		
Unexpended Appropriations	\$ 23	\$ 25
Cumulative Results of Operations	235,499	169,623
Revenue Withheld	233,529	233,529
Total Net Position	\$ 469,051	\$ 403,177
Total Liabilities and Net Position	\$ 1,297,312	\$ 1,151,526

The accompanying notes are an integral part of these financial statements.

U.S. PATENT AND TRADEMARK OFFICE CONSOLIDATING STATEMENTS OF NET COST

For the years ended September 30, 2004 and 2003

(Dollars in Thousands)	2004			2003
	PATENT	TRADEMARK	TOTAL	TOTAL
Enhance Quality and Minimize Processing Time				
Intragovernmental Gross Cost	\$ 211,787	\$ 24,160	\$ 235,947	\$ 234,276
Gross Cost with the Public	895,257	102,127	997,384	914,671
Total Program Cost	1,107,044	126,287	1,233,331	1,148,947
Intragovernmental Earned Revenue	(5,218)	(209)	(5,427)	(5,159)
Earned Revenue from the Public	(1,064,853)	(168,743)	(1,233,596)	(1,157,084)
Total Program Earned Revenue	(1,070,071)	(168,952)	(1,239,023)	(1,162,243)
Net Program Cost/(Income)	\$ 36,973	\$ (42,665)	\$ (5,692)	\$ (13,296)
Create a Flexible Organization through E-Government and Worldwide IP				
Intragovernmental Gross Cost	7,413	3,272	10,685	11,648
Gross Cost with the Public	31,334	13,831	45,165	45,478
Total Program Cost	38,747	17,103	55,850	57,126
Net Cost/(Income) from Operations	\$ 75,720	\$ (25,562)	\$ 50,158	\$ 43,830
Total Entity				
Total Program Cost (Notes 10 and 11)	\$ 1,145,791	\$ 143,390	\$ 1,289,181	\$ 1,206,073
Total Earned Revenue	(1,070,071)	(168,952)	(1,239,023)	(1,162,243)
Net Cost/(Income) from Operations	\$ 75,720	\$ (25,562)	\$ 50,158	\$ 43,830

The accompanying notes are an integral part of these financial statements.

**U.S. PATENT AND TRADEMARK OFFICE
CONSOLIDATED STATEMENTS OF CHANGES IN NET POSITION**

For the years ended September 30, 2004 and 2003

(Dollars in Thousands)	2004		2003	
	Cumulative Results of Operations	Unexpended Appropriations	Cumulative Results of Operations	Unexpended Appropriations
Net Position, Beginning of Year	\$ 403,152	\$ 25	\$ 410,010	\$ 678
Budgetary Financing Sources:				
Appropriations Used	2	(2)	653	(653)
Other Budgetary Financing Sources (Note 2)	75,584	—	—	—
Other Financing Sources:				
Imputed Financing (Note 9)	40,448	—	36,319	—
Total Financing Sources	116,034	(2)	36,972	(653)
Net Cost from Operations	(50,158)	—	(43,830)	—
Net Position, End of Year	\$ 469,028	\$ 23	\$ 403,152	\$ 25

The accompanying notes are an integral part of these financial statements.

U.S. PATENT AND TRADEMARK OFFICE COMBINED STATEMENTS OF BUDGETARY RESOURCES

For the years ended September 30, 2004 and 2003

(Dollars in Thousands)	2004	2003
BUDGETARY RESOURCES		
Budget Authority - Appropriations Received	\$ —	\$ 166,771
Unobligated Balance - Beginning of Year (Note 12)	3,540	5,655
Spending Authority from Offsetting Collections:		
Earned - Collected	1,247,238	1,158,207
Earned - Customer Receivables and Refund Payables	(167)	(160)
Change in Unfilled Customer Orders - Advance Received	74,649	36,612
Total Spending Authority from Offsetting Collections	1,321,720	1,194,659
Actual Recoveries of Prior Year Obligations	10,362	5,911
Temporarily not Available Pursuant to Public Law	(175,486)	(178,515)
Permanently not Available (Note 2)	75,584	—
Total Budgetary Resources	\$ 1,235,720	\$ 1,194,481
STATUS OF BUDGETARY RESOURCES		
Obligations Incurred – Reimbursable	\$ 1,233,357	\$ 1,190,941
Unobligated Balance Available:		
Realized and Apportioned for Current Year (Note 12)	1,844	2,064
Unobligated Balances not Available - Not Apportioned (Note 12)	519	1,476
Total Status of Budgetary Resources	\$ 1,235,720	\$ 1,194,481
RELATIONSHIP OF OBLIGATIONS TO OUTLAYS		
Obligated Balance, Net, Beginning of Year	\$ 327,789	\$ 288,341
Accounts Receivable	875	708
Undelivered Orders (Note 13)	203,014	230,079
Accounts Payable	100,489	97,002
Obligated Balance, Net, End of Year	304,378	327,789
Outlays:		
Disbursements	1,246,573	1,145,741
Collections	(1,321,887)	(1,194,818)
Net Collections	\$ (75,314)	\$ (49,077)

The accompanying notes are an integral part of these financial statements.

U.S. PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF FINANCING

For the years ended September 30, 2004 and 2003

(Dollars in Thousands)	2004	2003
RESOURCES USED TO FINANCE ACTIVITIES		
Budgetary Resources Obligated:		
Obligations Incurred	\$ 1,233,357	\$ 1,190,941
Spending Authority from Offsetting Collections and Recoveries	(1,332,082)	(1,200,570)
Net Obligations	(98,725)	(9,629)
Other Resources - Imputed Financing from Cost Absorbed by Others	40,448	36,319
Total Resources Used to Finance Activities	(58,277)	26,690
RESOURCES USED TO FINANCE ITEMS NOT PART OF THE NET COST OF OPERATIONS		
Change in Budgetary Resources Obligated for Goods, Services and Benefits Ordered but not yet Provided	43,765	(23,522)
Resources that Fund Costs Recognized in Prior Periods (Note 12)	(138)	—
Budgetary Offsetting Collections that do not Affect Net Cost of Operations (Note 12)	74,649	36,612
Resources that Finance the Acquisition of Assets Capitalized on the Balance Sheet	(75,511)	(61,062)
Total Resources Used to Finance Items not Part of the Net Cost of Operations	42,765	(47,972)
COMPONENTS OF NET COST OF OPERATIONS THAT WILL NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD		
Components Requiring or Generating Resources in Future Periods:		
Costs that will be Funded by Resources in Future Periods (Note 12)	2,510	6,687
Net Decrease/(Increase) in Revenue Receivables not Generating Resources until Collected	7,528	(4,761)
Total Components of Net Cost of Operations that will Require or Generate Resources in Future Periods	10,038	1,926
Components not Requiring or Generating Resources:		
Depreciation, Amortization, or Loss on Asset Dispositions	55,573	62,881
Other Costs that will not Require Resources	59	305
Total Components of Net Cost of Operations that will not Require or Generate Resources	55,632	63,186
Total Components of Net Cost of Operations that will not Require or Generate Resources in the Current Period	65,670	65,112
Net Cost from Operations	\$ 50,158	\$ 43,830

The accompanying notes are an integral part of these financial statements.

U.S. PATENT AND TRADEMARK OFFICE CONSOLIDATED STATEMENTS OF CASH FLOWS (INDIRECT METHOD)

For the years ended September 30, 2004 and 2003

(Dollars in Thousands)	2004	2003
CASH FLOWS FROM OPERATING ACTIVITIES		
Net Cost from Operations	\$ (50,158)	\$ (43,830)
Adjustments Affecting Cash Flow:		
Imputed Financing from Cost Absorbed by Others	40,448	36,319
Decrease/(Increase) in Accounts Receivable	7,553	(4,357)
Decrease in Advances and Prepayments	16,698	8,187
(Decrease)/Increase in Accounts Payable	(2,837)	5,366
Increase in Accrued Payroll and Benefits	7,066	3,826
Increase in Accrued Leave and Postemployment Compensation	842	3,974
(Decrease)/Increase in Customer Deposit Accounts	(3,638)	9,656
Increase in Patent Cooperation Treaty Account	2,086	1,299
Increase in Deferred Revenue	75,403	38,219
Increase in Actuarial Liability	990	1,162
Depreciation, Amortization, or Loss on Asset Dispositions	55,573	62,881
Total Adjustments	200,184	166,532
Net Cash Provided by Operating Activities	150,026	122,702
CASH FLOWS FROM INVESTING ACTIVITIES		
Purchases of Property and Equipment	(75,511)	(61,062)
Net Cash Used in Investing Activities	(75,511)	(61,062)
CASH FLOWS FROM FINANCING ACTIVITIES		
Rescissions Restored (Note 2)	75,584	—
Net Cash Provided by Financing Activities	75,584	—
Net Cash Provided by Operating, Investing, and Financing Activities	\$ 150,099	\$ 61,640
Fund Balance with Treasury and Cash, Beginning of Year	\$ 997,040	\$ 935,400
Net Cash Provided by Operating, Investing, and Financing Activities	150,099	61,640
Fund Balance with Treasury and Cash, End of Year	\$1,147,139	\$ 997,040

The accompanying notes are an integral part of these financial statements.

U.S. PATENT AND TRADEMARK OFFICE NOTES TO FINANCIAL STATEMENTS

As of and for the years ended September 30, 2004 and 2003

NOTE 1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Reporting Entity

The United States Patent and Trademark Office (USPTO) is an agency of the United States within the U.S. Department of Commerce. The USPTO administers the laws relevant to patents and trademarks and advises the Secretary of Commerce, the President of the United States, and the Administration on patent, trademark, and copyright protection, and trade-related aspects of intellectual property.

These financial statements include the USPTO's two core business activities – granting patents and registering trademarks – that promote the use of intellectual property rights as a means of achieving economic prosperity. These activities give innovators, businesses, and entrepreneurs the protection and encouragement they need to turn their creative ideas into tangible products, and also provide protection for their inventions and trademarks.

These financial statements report the accounts for salaries and expenses (13X1006), special fund receipts (revenue withheld) (135127), customer deposits from the public (13X6542), customer deposits from other federal agencies (13F3885), and Patent Cooperation Treaty collections (13X6538), which are under the control of the USPTO. The federal budget classifies the USPTO under the Commerce and Housing Credit (376) budget function. The USPTO does not have custodial responsibility, nor does it have lending or borrowing authority. The USPTO does not transact business among its own operating units, and therefore, no intra-entity eliminations are necessary.

Basis of Presentation

As required by the Chief Financial Officers' Act of 1990 and 31 U.S.C. 3515 (b), the accompanying financial statements present the financial position, net cost of operations, budgetary resources, and cash flows for the USPTO's core business activities. The books and records of the USPTO serve as the source of this information.

These financial statements were prepared in accordance with accounting principles generally accepted in the U.S. (GAAP) and the form and content for entity financial statements specified by the Office of Management and Budget (OMB) in Bulletin Number 01-09, *Form and Content of Agency Financial Statements*, as well as the accounting policies of the USPTO. Therefore, they may differ from other financial reports submitted pursuant to OMB directives for the purpose of monitoring and controlling the use of the USPTO's budgetary resources. The GAAP for federal entities are the standards prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official body for setting the accounting standards of the federal government.

Throughout these financial statements, assets, liabilities, revenues, and costs have been classified according to the type of entity with which the transactions are associated. Intra-governmental assets and liabilities are those from or to other federal entities. Intra-governmental earned revenues are collections or accruals of revenue from other federal entities and intra-governmental costs are payments or accruals to other federal entities.

Certain fiscal year 2003 amounts have been reclassified to conform with the fiscal year 2004 presentation.

Basis of Accounting

Transactions are recorded on the accrual basis of accounting, as well as on a budgetary basis. Accrual accounting allows for revenue to be recognized when earned and expenses to be recognized when goods or services are received, without regard to the receipt or payment of cash. Budgetary accounting allows for compliance with the requirements for and controls over the use of federal funds. The accompanying financial statements are presented on the accrual basis of accounting.

Budgets and Budgetary Accounting

Appropriated funds from general taxpayer revenue were eliminated gradually following the passage of the Omnibus Budget Reconciliation Act (OBRA) in 1990. The OBRA established revenue withholding on statutory patent fees. Subsequent legislation extended the revenue withholding through the end of fiscal year (FY) 1998. This withheld revenue constitutes offsetting receipts, and was deposited into a restricted special fund receipt account at the U.S. Department of the Treasury (Treasury). The USPTO may use moneys from this account only as authorized by the U.S. Congress, and only as made available by the issuance of a Treasury warrant. The *U.S. Patent and Trademark Reauthorization Act, Fiscal Year 1999*, as amended by Public Law 106-113, reset patent statutory fees without the OBRA surcharge. The USPTO has not collected or deposited any fees in the restricted special fund receipt account since fiscal year 1998. The special fund receipt account has no liabilities currently, and the entire Fund Balance will remain restricted until appropriated.

Fees other than the restricted revenue withholding are offsetting collections subject to an annual congressional limitation, and are available to the USPTO until expended. Funds authorized but not used in a given fiscal year are carried forward for use in future periods, as appropriated by the U.S. Congress.

The USPTO receives an appropriation of Category A funds from OMB, which apportions budgetary resources by fiscal quarter. The USPTO does not receive any Category B funds, or those exempt from apportionment.

Use of Estimates

The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

Revenue and Other Financing Sources

The USPTO's fee rates are established by law and, consequently, in some instances may not represent full cost or market price. Since fiscal year 1993, the USPTO funding has been primarily through the collection of user fees. Fees that are remitted with initial applications and requests for other services are recorded as exchange revenue when received, with an adjustment to defer revenue for services that have not been performed. All amounts remitted by customers without a request for service are recorded as liabilities in customer deposit accounts until services are ordered.

The USPTO's share of the cost to the federal government for providing pension and other post-retirement benefits to eligible USPTO employees is recognized as an imputed financing source.

The USPTO also receives some financial gifts and gifts-in-kind from anonymous donors. All such transactions are included in the consolidated Gifts and Bequests Fund financial statements of the Department of Commerce. These gifts are not of significant value and are not reflected in the USPTO's financial statements. Most gifts-in-kind are used for official travel to further attain the USPTO mission and objectives.

Entity/Non-Entity

Assets that an entity is authorized to use in its operations are termed entity assets, while assets that are held by an entity and are not available for the entity's use are termed non-entity assets. All of the USPTO's assets are entity assets and are available to carry out the mission of the USPTO within existing budget constraints, with the exception of a portion of the Fund Balance with Treasury, as highlighted in Note 3.

Fund Balance with Treasury

The USPTO deposits revenue in commercial bank accounts maintained by the Treasury's Financial Management Service (FMS). All moneys maintained in these accounts are transferred to the Federal Reserve Bank on the next business day following the day of deposit. In addition, many customer deposits are wired directly to the Federal Reserve Bank. All banking activity is conducted in accordance with the directives issued by the FMS. Treasury processes all disbursements.

Accounts Receivable

Accounts receivable from the public represent a very small portion of the USPTO's assets as the USPTO requires payment prior to the provision of goods or services during the course of its core business activities. Public accounts receivable are comprised mainly of amounts due from former employees for the reimbursement of education expenses and other benefits.

The USPTO recorded a \$1 thousand and \$8 thousand allowance for uncollectible amounts to reduce the gross amount of its public accounts receivable to its net realizable value as of September 30, 2004 and 2003, respectively. The allowance is established for receivables that have been transferred to Treasury. The gross amount of USPTO's public accounts receivable as of September 30, 2004 and 2003 was \$1,304 thousand and \$8,899 thousand, respectively.

Advances and Prepayments

On occasion, the USPTO prepays amounts in anticipation of receiving future benefits. Although a payment has been made, an expense is not recorded until goods have been received or services have been performed. The largest single advance, in the amount of \$2,871 thousand, is with the U.S. General Services Administration (GSA) for the construction of the USPTO headquarters in Alexandria, Virginia. In addition, the USPTO maintains deposit accounts with the U.S. Government Printing Office and the Department of Commerce to facilitate recurring transactions. The USPTO also advances funds to personnel for travel costs, which are expensed after travel has occurred.

Cash

Most of the USPTO's cash balance consists of undeposited checks for fees that were not processed at the Balance Sheet date due to the lag time between receipt and initial review. All such undeposited check amounts are considered to be cash equivalents. As of September 30, 2004 and 2003, the cash balance includes undeposited checks of \$11,869 thousand and \$11,452 thousand, respectively. Of these balances, \$463 thousand and \$800 thousand were non-entity Patent Cooperation Treaty Account assets as of September 30, 2004 and 2003, respectively. Cash is also held outside the Treasury to be used as imprest funds. An imprest fund of \$2 thousand was held as of September 30, 2004 and 2003.

Property and Equipment

The USPTO's capitalization policies are summarized below:

Classes of Property and Equipment	Capitalization Threshold for Individual Purchases	Capitalization Threshold for Bulk Purchases
IT Equipment	\$25 thousand or greater	\$500 thousand or greater
Software	\$25 thousand or greater	Not applicable
Software in Progress	\$25 thousand or greater	Not applicable
Furniture	\$25 thousand or greater	\$ 50 thousand or greater
Equipment	\$25 thousand or greater	\$500 thousand or greater
Construction in Progress	\$25 thousand or greater	Not applicable
Leasehold Improvements	\$25 thousand or greater	Not applicable

Contractor costs for developing custom internal use software are capitalized when incurred for the design, coding, and testing of the software. Software in progress and construction in progress is not amortized until placed in service.

Property and equipment acquisitions that do not meet the capitalization criteria are expensed upon receipt.

Injury Compensation

Claims brought by USPTO employees for on-the-job injuries fall under the Federal Employees Compensation Act (FECA) administered by the U.S. Department of Labor (DOL). The DOL bills each agency annually as its claims are paid, but payment on these bills is deferred approximately two years to allow for funding through the budget process. As of September 30, 2004, the USPTO recorded a \$1,449 thousand liability for claims paid on its behalf during the benefit period July 1, 2002 through September 30, 2004. As of September 30, 2003, the USPTO recorded a \$1,358 thousand liability for claims paid on its behalf during the benefit period July 1, 2001 through September 30, 2003.

Post-employment Compensation

USPTO employees who lose their jobs through no fault of their own may receive unemployment compensation benefits under the unemployment insurance program administered by the DOL. The DOL bills each agency quarterly as its claims are paid. As of September 30, 2004 and 2003, the USPTO liability was \$73 thousand and \$211 thousand, respectively, for claims paid by the DOL on behalf of the USPTO.

Annual, Sick, and Other Leave

Annual leave and compensatory time are accrued as earned, with the accrual being reduced when leave is taken. An adjustment is made each fiscal quarter to ensure that the balances in the accrued leave accounts reflect current pay rates. No portion of this liability has been obligated. To the extent current or prior year funding is not available to pay for leave earned but not taken, funding will be obtained from future financing sources. Sick leave and other types of non-vested leave are expensed as used.

Accrued leave as of September 30, 2004 and 2003 was \$38,935 thousand and \$38,046 thousand, respectively.

Employee Retirement Systems and Benefits

USPTO employees participate in either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). The FERS was established by the enactment of Public Law 99-335. Pursuant to this law, the FERS and Social Security automatically cover most employees hired after December 31, 1983. Employees who had five years of Federal civilian service prior to 1984 and who are rehired after a break in service of more than one year may elect to join the FERS and Social Security system or be placed in the CSRS offset retirement system.

The USPTO's financial statements do not report CSRS or FERS assets or accumulated plan benefits that may be applicable to its employees. The reporting of such liabilities is the responsibility of the U.S. Office of Personnel Management (OPM). While the USPTO reports no liability for future payments to employees under these programs, the federal government is liable for future payments to employees through the various agencies administering these programs. The USPTO does not fund post-retirement benefits such as the Federal Employees Health Benefit Program (FEHB) and the Federal Employees Group Life Insurance Program (FGLI). The USPTO also is not required to fully fund the CSRS pension liabilities. The financial statements of the USPTO recognize an imputed financing source and corresponding expense that represents the USPTO's share of the cost to the federal government of providing pension, post-retirement health, and life insurance benefits to all eligible USPTO employees.

For the year ended September 30, 2004, the USPTO made contributions equivalent to approximately 7.0 percent and 10.7 percent of the employee's basic pay for those employees covered by CSRS and FERS, respectively, based on OPM cost factors. For the year ended September 30, 2003, the USPTO made contributions equivalent to approximately 7.1 percent and 10.7 percent of the employee's basic pay for those employees covered by CSRS and FERS, respectively, based on OPM cost factors.

All employees are eligible to contribute to a thrift savings plan. For those employees participating in the FERS, a thrift savings plan is automatically established, and the USPTO makes a mandatory one percent contribution to this plan. In addition, the USPTO makes matching contributions ranging from one to four percent for FERS-eligible employees who contribute to their thrift savings plans. No matching contributions are made to the thrift savings plans for employees participating in the CSRS. Employees participating in the FERS are also covered under the Federal Insurance Contributions Act (FICA), for which the USPTO contributes a matching amount to the Social Security Administration.

For the years ended September 30, 2004 and 2003, the USPTO's retirement plan contributions for CSRS and FERS participants were \$52,463 thousand and \$49,433 thousand, respectively. The USPTO also contributed to the Social Security Administration for FICA benefits \$33,840 thousand and \$31,744 thousand for the years ending September 30, 2004 and 2003, respectively.

Deferred Revenue

Deferred revenue represents fees that have been received by the USPTO for requested services that have not been substantially completed. Two types of deferred revenue are recorded. The first type results from checks received, with requests for services, which were not yet deposited due to the lag time between receipt and initial review. The second type of deferred revenue relates primarily to fees for applications that have been partially processed. The deferred revenue calculation is a complex accounting estimate, which requires a detailed and comprehensive understanding of numerous business and administrative processes as well as an in-depth knowledge of workloads and inventories. Beginning in fiscal year 2004, the calculation has expanded to include Trademark Intent-To-Use applications.

Environmental Cleanup

The USPTO does not have any liabilities for environmental cleanup.

NOTE 2. FUND BALANCE WITH TREASURY

As of September 30, 2004 and 2003, Fund Balance with Treasury consisted of the following:

(Dollars in Thousands)	2004	2003
Obligated Balance Not Yet Disbursed	\$ 304,378	\$ 327,789
Unobligated Balance Available	1,844	2,064
Unobligated Balance Unavailable	829,046	655,733
Total Fund Balance with Treasury	\$ 1,135,268	\$ 985,586

No discrepancies exist between the Fund Balance reflected in the general ledger and the balance in the Treasury accounts.

As of September 30, 2004 and 2003, the unobligated balance unavailable includes revenue withheld of \$233,529 thousand and non-entirety funds of \$78,501 thousand and \$79,716 thousand, respectively.

In fiscal year 2004, OMB addressed the classification of rescissions and clarified that rescissions can be either permanent or temporary. OMB addressed reporting and accounting for temporary rescissions in Section 82 of OMB Circular A-11. Prior to the issuance of the revised OMB Circular A-11, Treasury provided interim budgetary accounting guidance for recording certain aspects of the temporary rescissions. The USPTO was notified by OMB that any rescission that was taken as a reduction of spending authority from offsetting collections was, unless otherwise specified in law, temporary. Any prior recordation which did not follow this guidance was to be amended, if the means were possible, to comply with the guidance.

Because of this clarification of guidance and USPTO's confirmation that the only source of the rescission amounts was spending authority from offsetting collections, the USPTO requested FMS reverse \$75,584 thousand comprised of the following credit warrants:

- Fiscal year 2002 credit warrant for \$555,000 pursuant to P.L. 106-206 (Federal administrative and travel expenses rescission);
- Fiscal year 2000 credit warrant for \$2,980,000 pursuant to P.L. 106-113 (government-wide rescission);
- Fiscal year 1999 credit warrant for \$71,000,000 pursuant to P.L. 107-277 (account-specific rescission); and
- Fiscal year 1999 credit warrant for \$1,049,000 pursuant to P.L. 106-51 (Federal administrative and travel expenses rescission).

Consistent with the OMB and FMS guidance now in place, Treasury treated these transactions as temporary reductions and restored the unappropriated USPTO Fund Balance with Treasury in February, 2004.

NOTE 3. NON-ENTITY ASSETS

Non-entity assets consist of amounts held on deposit for the convenience of USPTO customers and held on behalf of the World Intellectual Property Organization (WIPO) and the European Patent Office (EPO). Customers have the option of maintaining a deposit account at the USPTO to facilitate the order process. Customers can draw from their deposit account when they place an order and can replenish their deposit account as desired. Funds maintained in customer deposit accounts are not available for USPTO use until an order has been placed. Once an order has been placed, the funds are reclassified to entity funds. Also, in accordance with the Patent Cooperation Treaty, the USPTO collects international fees on behalf of the WIPO and the EPO. The amounts collected are remitted to WIPO and EPO monthly.

(Dollars in Thousands)	2004	2003
Fund Balance with Treasury:		
Intragovernmental Deposit Accounts	\$ 3,906	\$ 3,266
Other Customer Deposit Accounts	66,863	71,141
Patent Cooperation Treaty Account	7,732	5,309
Total Fund Balance with Treasury	78,501	79,716
Cash:		
Patent Cooperation Treaty Account	463	800
Total Non-Entity Funds	\$ 78,964	\$ 80,516

NOTE 4. PROPERTY AND EQUIPMENT

As of September 30, 2004, property and equipment consisted of the following:

(Dollars in Thousands)

Class of Fixed Asset	Depreciation/ Amortization Method	Service Life (Years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
IT Equipment	SL	3-5	\$ 193,116	\$ 163,050	\$ 30,066
Software	SL	3-5	173,341	127,564	45,777
Software in Progress	—	—	5,893	—	5,893
Furniture	SL	5	10,541	6,312	4,229
Equipment	SL	3-5	10,798	10,094	704
Construction in Progress	—	—	25,196	—	25,196
Leasehold Improvements	SL	20	25,810	372	25,438
Total Fixed Assets			\$ 444,695	\$ 307,392	\$ 137,303

As of September 30, 2003, property and equipment consisted of the following:

(Dollars in Thousands)

Class of Fixed Asset	Depreciation/ Amortization Method	Service Life (Years)	Acquisition Value	Accumulated Depreciation/ Amortization	Net Book Value
IT Equipment	SL	3-5	\$ 226,538	\$ 182,403	\$ 44,135
Software	SL	3-5	152,131	107,373	44,758
Software in Progress	—	—	15,504	—	15,504
Furniture	SL	5	13,607	10,748	2,859
Equipment	SL	3-5	10,637	9,428	1,209
Construction in Progress	—	—	8,900	—	8,900
Total Fixed Assets			\$ 427,317	\$ 309,952	\$ 117,365

NOTE 5. LIABILITIES

The USPTO records liabilities for amounts that are likely to be paid as the direct result of events that have already occurred. The USPTO considers liabilities covered by three types of resources: realized budgetary resources; unrealized budgetary resources that become available without further Congressional action; and cash and Fund Balance with Treasury. Realized budgetary resources include obligated balances funding existing liabilities and unobligated balances as of September 30, 2004. Unrealized budgetary resources are amounts that were not available for spending through September 30, 2004, but become available for spending on October 1, 2004 once apportioned by the OMB. In addition, cash and Fund balance with Treasury cover liabilities that will never require the use of a budgetary resource. These liabilities consist of deposit accounts, refunds payable to customers for fee overpayments, undeposited collections, and amounts collected by the USPTO on behalf of other organizations.

Due to the USPTO's funding structure, budgetary resources do not cover a portion of unearned fees. Deferred revenue (unearned fees) is a liability for fees received before the Patent or Trademark work has been completed. Budgetary resources from current operations normally associated with earning current fees have been partially used to cover current year costs associated with unearned fees from a prior year. In addition, the current patent fee structure sets low initial application fees that are followed by income from maintenance fees as a supplement in later years to cover the full cost of the patent examination and issuance process. The combination of these funding circumstances requires the USPTO to obtain additional budgetary resources to cover its liability for unearned revenue.

As of September 30, 2004 and 2003, liabilities covered and not covered by budgetary resources were as follows:

(Dollars in Thousands)	2004	2003
Liabilities Covered by Resources		
Intragovernmental:		
Accounts Payable	\$ 2,220	\$ 3,514
Accrued Payroll and Benefits	4,108	2,892
Customer Deposit Accounts	3,906	3,266
Total Intragovernmental	10,234	9,672
Accounts Payable	75,067	76,610
Accrued Payroll and Benefits	20,004	14,694
Customer Deposit Accounts	66,863	71,141
Deferred Revenue	13,769	14,192
Patent Cooperation Treaty Account	8,195	6,109
Total Liabilities Covered by Resources	\$ 194,132	\$ 192,418
Liabilities Not Covered by Resources		
Intragovernmental:		
Accrued Postemployment Compensation	\$ 1,522	\$ 1,569
Total Intragovernmental	1,522	1,569
Accrued Payroll and Benefits	20,361	19,821
Accrued Leave	38,935	38,046
Deferred Revenue	565,827	490,001
Actuarial Liability	7,484	6,494
Total Liabilities Not Covered by Resources	\$ 634,129	\$ 555,931
Total Liabilities	\$ 828,261	\$ 748,349

NOTE 6. DEFERRED REVENUE

As of September 30, 2004, deferred revenue consisted of the following:

(Dollars in Thousands)	Patent	Trademark	Total
Unearned Fees	\$ 491,004	\$ 77,186	\$ 568,190
Undeposited Checks	10,231	1,175	11,406
Total Deferred Revenue	\$ 501,235	\$ 78,361	\$ 579,596

As of September 30, 2003, deferred revenue consisted of the following:

(Dollars in Thousands)	Patent	Trademark	Total
Unearned Fees	\$ 445,112	\$ 48,429	\$ 493,541
Undeposited Checks	9,598	1,054	10,652
Total Deferred Revenue	\$ 454,710	\$ 49,483	\$ 504,193

NOTE 7. ACTUARIAL LIABILITY

The FECA provides income and medical cost protection to covered federal civilian employees injured on the job and for those who have contracted a work-related occupational disease, and beneficiaries of employees whose death is attributable to a job-related injury or occupational disease. Claims incurred for benefits under the FECA for the USPTO's employees are administered by the DOL and are paid ultimately by the USPTO.

The DOL estimated the future workers compensation liability by applying actuarial procedures developed to estimate the liability for FECA benefits. The actuarial liability estimates for FECA benefits include the expected liability for death, disability, medical, and miscellaneous costs for approved compensation cases, plus a component for incurred but not reported claims. The actuarial liability is updated annually.

The DOL method of determining the liability uses historical benefit payment patterns for a specific incurred period to predict the ultimate payments for that period. Consistent with past practice, these projected annual benefit payments have been discounted to present value using the OMB's economic assumptions for ten-year Treasury notes and bonds. Interest rate assumptions utilized for discounting were as follows:

2004	2003
4.88% in year 1, 5.24% in year 2, and thereafter	3.84% in year 1, 4.35% in year 2, and thereafter

Based on information provided by the DOL, the Department of Commerce estimated the USPTO's liability as of September 30, 2004 and 2003 was \$7,484 thousand and \$6,494 thousand, respectively.

NOTE 8. LEASES**Operating Leases:**

The GSA negotiates long-term office space leases and levies rent charges, paid by the USPTO, approximate to commercial rental rates. These operating lease agreements for the USPTO's office buildings expire at various dates between FY 2005 and FY 2023. During the years ended September 30, 2004 and 2003, the USPTO paid \$74,521 thousand and \$65,358 thousand, respectively, to the GSA for rent.

Under existing commitments, the future minimum lease payments as of September 30, 2004 are as follows:

Fiscal Year	(Dollars in Thousands)
2005	\$ 69,324
2006	61,943
2007	59,088
2008	55,806
2009	55,253
Thereafter	773,545
Total Future Minimum Lease Payments	\$ 1,074,959

The commitments shown above relate primarily to the new operating lease for the USPTO headquarters in Alexandria, Virginia, beginning in fiscal year 2004 and extending to fiscal year 2023. The operating lease commitments for USPTO offices in Arlington, Virginia, will expire in fiscal year 2008.

NOTE 9. IMPUTED FINANCING

The USPTO recognizes an imputed financing source and corresponding expense to represent its share of the cost to the federal government of providing pension and post-retirement health and life insurance benefits to all eligible USPTO employees.

As of September 30, 2004 and 2003, the components of the imputed financing sources and corresponding expenses were as follows:

(Dollars in Thousands)	2004	2003
CSRS	\$ 10,738	\$ 11,017
FERS	2,121	1,972
FEHB	27,504	23,249
FEGLI	85	81
Total Imputed Financing	\$ 40,448	\$ 36,319

NOTE 10. PROGRAM COSTS

Program costs consist of both costs related directly to the individual business lines and overall support costs allocated to the business lines. All costs are assigned to specific programs. Total program or operating costs for the years ended September 30, 2004 and 2003 by cost category were as follows:

(Dollars in Thousands)	2004			2003
	Direct	Allocated	Total	Total
Personnel Services and Benefits	\$ 690,308	\$ 54,844	\$ 745,152	\$ 699,595
Travel and Transportation	1,244	4,181	5,425	5,667
Rent, Communications, and Utilities	88,846	17,364	106,210	90,625
Printing and Reproduction	72,963	196	73,159	75,448
Contractual Services	174,100	88,423	262,523	229,656
Training	718	548	1,266	2,209
Maintenance and Repairs	10,221	10,613	20,834	21,121
Supplies and Materials	7,451	158	7,609	9,399
Equipment not Capitalized	7,723	3,736	11,459	9,413
Insurance Claims and Indemnities	(31)	2	(29)	59
Depreciation, Amortization, or Loss on Asset Dispositions	37,903	17,670	55,573	62,881
Total Program Costs	\$ 1,091,446	\$ 197,735	\$ 1,289,181	\$ 1,206,073

The unfunded portion of personnel services and benefits for the years ended September 30, 2004 and 2003 was \$2,510 thousand and \$6,687 thousand, respectively.

NOTE 11. PROGRAM COSTS BY CATEGORY AND RESPONSIBILITY SEGMENT

The program costs for the years ended September 30, 2004 and 2003 by cost category and business line were as follows:

(Dollars in Thousands)	2004			2003		
	Patent	Trademark	Total	Patent	Trademark	Total
Direct Costs						
Personnel Services and Benefits	\$ 616,272	\$ 74,036	\$ 690,308	\$ 580,493	\$ 67,059	\$ 647,552
Travel and Transportation	1,095	149	1,244	1,003	168	1,171
Rent, Communications, and Utilities	79,563	9,283	88,846	65,983	7,901	73,884
Printing and Reproduction	71,765	1,198	72,963	72,731	2,556	75,287
Contractual Services	151,682	22,418	174,100	127,011	20,102	147,113
Training	683	35	718	1,408	244	1,652
Maintenance and Repairs	8,177	2,044	10,221	6,551	1,389	7,940
Supplies and Materials	7,006	445	7,451	7,517	405	7,922
Equipment not Capitalized	5,846	1,877	7,723	4,499	1,600	6,099
Insurance Claims and Indemnities	(31)	-	(31)	16	2	18
Depreciation, Amortization, or Loss on Asset Dispositions	32,924	4,979	37,903	37,159	4,639	41,798
Subtotal Direct Costs	974,982	116,464	1,091,446	904,371	106,065	1,010,436
Allocated Costs						
Automation	85,801	14,674	100,475	82,511	12,703	95,214
Resource Management	85,008	12,252	97,260	87,216	13,207	100,423
Subtotal Allocated Costs	170,809	26,926	197,735	169,727	25,910	195,637
Total Program Costs	\$ 1,145,791	\$ 143,390	\$ 1,289,181	\$ 1,074,098	\$ 131,975	\$ 1,206,073

The unfunded portion of personnel services and benefits for the years ended September 30, 2004 and 2003 was \$2,510 thousand and \$6,687 thousand, respectively.

NOTE 12. FUTURE FUNDING REQUIREMENTS

For the year ended September 30, 2004, future funding requirements were as follows:

(Dollars in Thousands)	
Liabilities not Covered by Budgetary Resources as of 9/30/2003	\$ 555,931
Unobligated Balance Used to Cover Unfunded Liabilities	3,540
Unfunded Liabilities as of 9/30/2003	\$ 559,471
Liabilities not Covered by Budgetary Resources as of 9/30/2004	\$ 634,129
Unobligated Balance Used to Cover Unfunded Liabilities	2,363
Unfunded Liabilities as of 9/30/2004	\$ 636,492
Increase in Unfunded Liabilities	\$ 77,021
Costs that will be Funded by Resources in Future Periods	\$ 2,510
Resources that Fund Costs Recognized in Prior Periods	(138)
Budgetary Offsetting Collections that do not Affect Net Cost of Operations	74,649
Increase in Future Funding Requirements	\$ 77,021

NOTE 13. COMMITMENTS AND CONTINGENCIES

Commitments

In addition to the future lease commitments discussed in Note 8, the USPTO is obligated for the purchase of goods and services that have been ordered, but not yet received. Total undelivered orders for all of the USPTO's activities were \$214,546 thousand and \$258,311 thousand as of September 30, 2004 and 2003, respectively. Of these amounts, \$203,014 thousand and \$230,079 thousand, respectively, were unpaid.

Contingencies

The USPTO is a party to various routine administrative proceedings, legal actions, and claims brought by or against it, including threatened or pending litigation involving labor relations claims, some of which may ultimately result in settlements or decisions against the federal government. As of September 30, 2004, management expects it is reasonably possible that approximately \$10,200 thousand may be owed for awards or damages involving labor relations claims.

Additionally, the USPTO may be required to make contributions to the Judgment Fund. For the years ended September 30, 2004 and 2003, there were no payments made on the USPTO's behalf from the Judgment Fund.

Required Supplemental Information



U.S. PATENT AND TRADEMARK OFFICE REQUIRED SUPPLEMENTAL INFORMATION

As of September 30, 2004 and 2003

Intragovernmental Assets: (Dollars in Thousands)

Trading Partner	2004				2003
	Fund Balance with Treasury	Accounts Receivable, Net	Advances and Prepayments	Total	Total
04 U.S. Government Printing Office	\$ -	\$ -	\$ 2,238	\$ 2,238	\$ 3,442
13 Department of Commerce	-	-	494	494	706
20 Department of Treasury	1,135,268	-	-	1,135,268	985,586
47 General Services Administration	-	-	3,638	3,638	20,100
68 Environmental Protection Agency	-	35	-	35	-
Total	\$ 1,135,268	\$ 35	\$ 6,370	\$ 1,141,673	\$ 1,009,834

Intragovernmental Liabilities: (Dollars in Thousands)

Trading Partner	2004				2003
	Accounts Payable	Accrued Payroll and Benefits	Accrued Post-employment Compensation	Customer Deposit Accounts	Total
03 Library of Congress	\$ 205	\$ -	\$ -	\$ -	\$ 130
04 Government Printing Office	105	-	-	-	299
11 Executive Office of the President	220	-	-	-	71
12 Department of Agriculture	17	-	-	212	223
13 Department of Commerce	168	-	-	43	270
14 Department of Interior	1	-	-	30	43
15 Department of Justice	265	-	-	7	12
16 Department of Labor	52	-	1,522	-	1,621
17 Department of the Navy	-	-	-	1,536	1,162
18 United States Postal Service	-	-	-	30	9
19 Department of State	63	-	-	-	5
20 Department of Treasury	7	-	-	-	5
21 Department of the Army	-	-	-	543	322
24 Office of Personnel Management	369	2,929	-	-	2,481
29 Federal Trade Commission	-	-	-	-	2
36 Department of Veterans Affairs	193	-	-	-	-
45 U.S. Equal Employment Opportunity Commission	2	-	-	-	1
47 General Services Administration	208	-	-	-	1,872
57 Department of the Air Force	-	-	-	199	131
68 Environmental Protection Agency	124	-	-	35	159
69 Department of Transportation	-	-	-	4	2
75 Health and Human Services	184	-	-	35	166
80 National Aeronautics and Space Administration	-	-	-	220	238
88 National Archives and Records Administration	21	-	-	-	172
89 Department of Energy	-	-	-	988	969
96 U.S. Army Corps of Engineers	-	-	-	4	21
97 Department of Defense	16	-	-	20	47
99 Treasury General Fund	-	1,179	-	-	808
Total	\$ 2,220	\$ 4,108	\$ 1,522	\$ 3,906	\$ 11,756
					\$ 11,241

**Intragovernmental Earned Revenue:
(Dollars in Thousands)**

Trading Partner	2004	2003
12 Department of Agriculture	\$ 285	\$ 326
13 Department of Commerce	54	42
14 Department of Interior	12	28
15 Department of Justice	5	8
17 Department of the Navy	1,367	1,352
18 United States Postal Service	136	44
19 Department of State	106	-
21 Department of the Army	831	791
47 General Services Administration	98	-
49 National Science Foundation	31	30
57 Department of the Air Force	275	316
68 Environmental Protection Agency	192	213
69 Department of Transportation	4	5
75 Department of Health and Human Services	2	7
80 National Aeronautics and Space Administration	587	544
89 Department of Energy	1,293	1,340
96 U.S. Army Corps of Engineers	81	47
97 Department of Defense	68	66
Total	\$ 5,427	\$ 5,159

**Gross Costs that Generated Intragovernmental Earned Revenue:
(Dollars in Thousands)**

Budget Functional Classification	2004	2003
376 Commerce Housing Credit	\$ 5,647	\$ 5,353
Total	\$ 5,647	\$ 5,353

The USPTO has not deferred to a future period maintenance on the property and equipment presented on the Balance Sheet as of September 30, 2004 and 2003.

Independent Auditors' Report





UNITED STATES DEPARTMENT OF COMMERCE
The Inspector General
Washington, D.C. 20230

NOV 8 2004

MEMORANDUM FOR: Jon W. Dudas
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office

FROM: Johnnie E. Frazier

SUBJECT: *USPTO's FY 2004 Financial Statements*
Audit Report No. FSD-16700-5-0001

I am pleased to provide you with the attached audit report, which presents an unqualified opinion on the U.S. Patent and Trademark Office's FY2004 financial statements. The audit results indicate that the USPTO has established an internal control structure that facilitates the preparation of reliable financial and performance information. We commend the USPTO for the noteworthy accomplishment of attaining an unqualified opinion for the 12th consecutive year, and for meeting the fiscal year 2004 accelerated reporting deadline.

My office contracted with the independent public accounting firm of KPMG LLP (KPMG) to perform the audit of the USPTO's financial statements as of and for the year ended September 30, 2004. The contract required that the audit be done in accordance with U.S. generally accepted government auditing standards and OMB Bulletin 01-02, *Audit Requirements for Federal Financial Statements*.

In its audit of the USPTO, KPMG found that:

- the financial statements were fairly presented, in all material respects and in conformity with U.S. generally accepted accounting principles;
- there were no material weaknesses in internal control, as defined on page 2 of the audit report;
- there were no instances in which the USPTO's financial management systems did not comply with the requirements of the Federal Financial Management Improvement Act of 1996, and no reportable noncompliance with other laws and regulations tested.

My office defined the audit's scope and oversaw its performance and delivery. We reviewed KPMG's report and related documentation, and made inquiries of its representatives. Our review disclosed no instances where KPMG did not comply, in all material respects, with U.S. generally accepted government auditing standards. However, our review, as differentiated from an audit in accordance with U.S. generally accepted government auditing standards, was not intended to enable us to express, and we do not express, an opinion on the USPTO's financial statements, conclusions about the effectiveness of internal control, or conclusions on compliance with laws and regulations. KPMG is responsible for the attached audit report dated November 2, 2004, and the conclusions expressed in the report.

If you wish to discuss the contents of this report, please call me on (202) 482-4661, or Edward Blansitt, Deputy Inspector General, on (202) 482-3516. We appreciate the cooperation and courtesies the USPTO extended to KPMG and my staff during the audit.

Attachment

cc: Jo-Anne Barnard
Chief Financial Officer and Chief Administrative Officer
U.S. Patent and Trademark Office

Otto J. Wolff
Chief Financial Officer and Assistant Secretary for Administration
Department of Commerce



2001 M Street, NW
Washington, DC 20036

Independent Auditors' Report

Office of Inspector General, U. S. Department of Commerce and
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office:

We have audited the accompanying consolidated balance sheets of the U. S. Patent and Trademark Office (USPTO), an Agency within the U. S. Department of Commerce, as of September 30, 2004 and 2003, and the related consolidated statements of net cost, changes in net position, financing, and cash flows, and the combined statement of budgetary resources for the years then ended. The objective of our audits was to express an opinion on the fair presentation of these financial statements. In connection with our audits, we also considered the USPTO's internal control over financial reporting and tested the USPTO's compliance with certain provisions of applicable laws, regulations and contracts that could have a direct and material effect on its financial statements.

Summary

As stated in our opinion on the financial statements, we concluded that the USPTO's financial statements as of and for the years ended September 30, 2004 and 2003, are presented fairly, in all material respects, in conformity with accounting principles generally accepted in the United States of America.

Our consideration of internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses under standards issued by the American Institute of Certified Public Accountants. However, we noted no matters involving the internal control and its operation that we considered to be material weaknesses.

The results of our tests of compliance with certain provisions of laws, regulations, and contracts disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*, issued by the Comptroller General of the United States, and Office of Management and Budget (OMB) Bulletin No. 01-02, *Audit Requirements for Federal Financial Statements*.

The following sections discuss our opinion on the USPTO's financial statements; our consideration of the USPTO's internal control over financial reporting; our tests of the USPTO's compliance with certain provisions of applicable laws, regulations, and contracts; and management's and our responsibilities.



Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of the USPTO, as of September 30, 2004 and 2003, and the related consolidated statements of net cost, changes in net position, financing, and cash flows, and the combined statement of budgetary resources for the years then ended.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the USPTO as of September 30, 2004 and 2003, and its net costs, changes in net position, budgetary resources, reconciliation of net costs to budgetary obligations, and cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

The information in the Management Discussion and Analysis and Required Supplementary Information sections is not a required part of the financial statements, but is supplementary information required by accounting principles generally accepted in the United States of America or OMB Bulletin No. 01-09, *Form and Content of Agency Financial Statements*. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of this information. However, we did not audit this information and, accordingly, we express no opinion on it.

Our audit was conducted for the purpose of forming an opinion on the financial statements taken as a whole. The Management and Performance Challenges Identified by the Inspector General and Other Accompanying Information included on pages 105 through 146 are an integral part of the USPTO's *Fiscal Year 2004 Performance and Accountability Report*. However, this information is not a required part of the financial statements and is presented for purposes of additional analysis. This information has not been subjected to the auditing procedures applied in the audits of the financial statements and, accordingly, we express no opinion on it.

Internal Control Over Financial Reporting

Our consideration of internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be reportable conditions. Under standards issued by the American Institute of Certified Public Accountants, reportable conditions are matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the USPTO's ability to record, process, summarize, and report financial data consistent with the assertions by management in the financial statements.

Material weaknesses are reportable conditions in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements, in amounts that would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control and its operation that we considered to be material weaknesses as defined above.

* * * * *

However, we noted other matters involving internal control over financial reporting and its operation that we have reported to the management of the USPTO in two separate letters, addressing information technology and other matters, respectively.



Compliance and Other Matters

Our tests of compliance with certain provisions of laws, regulations, and contracts, as described in the Responsibilities section of this report, exclusive of those referred to in the *Federal Financial Management Improvement Act (FFMIA)*, disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards* or OMB Bulletin No. 01-02.

The results of our tests of FFMIA disclosed no instances in which the USPTO's financial management systems did not substantially comply with the three requirements discussed in the Responsibilities section of this report.

Responsibilities

Management's Responsibilities. The *Government Management Reform Act of 1994 (GMRA)* requires each Chief Financial Officers (CFO) Act agency to report annually to Congress on its financial status and any other information needed to fairly present its financial position and results of operations. To meet the GMRA reporting requirements, the USPTO prepares annual financial statements.

Management is responsible for the financial statements, including:

- Preparing the financial statements in conformity with accounting principles generally accepted in the United States of America;
- Establishing and maintaining internal controls over financial reporting, and preparing the Management Discussion and Analysis (including the performance measures) and Required Supplementary Information; and
- Complying with laws, regulations, and contracts including FFMIA.

In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control policies. Because of inherent limitations in internal control, misstatements due to error or fraud may nevertheless occur and not be detected.

Auditors' Responsibilities. Our responsibility is to express an opinion on the fiscal year 2004 and 2003 financial statements of the USPTO based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards*, and OMB Bulletin No. 01-02. Those standards and OMB Bulletin No. 01-02 require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit includes:

- Examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements;
- Assessing the accounting principles used and significant estimates made by management; and
- Evaluating the overall financial statement presentation.

We believe that our audits provide a reasonable basis for our opinion.

In planning and performing our fiscal year 2004 audit, we considered the USPTO's internal control over financial reporting by obtaining an understanding of the USPTO's internal control, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls in order to determine our auditing procedures for the purpose of expressing our opinion on the financial



statements. We limited our internal control testing to those controls necessary to achieve the objectives described in *Government Auditing Standards* and OMB Bulletin No. 01-02. We did not test all internal controls relevant to operating objectives as broadly defined by the *Federal Managers' Financial Integrity Act of 1982*. The objective of our audit was not to provide assurance on internal control over financial reporting. Consequently, we do not provide an opinion thereon.

As further required by OMB Bulletin No. 01-02, with respect to internal control related to performance measures determined by management to be key and reported in the Management Discussion and Analysis section, we obtained an understanding of the design of significant internal controls relating to the existence and completeness assertions. Our procedures were not designed to provide assurance on internal control over performance measures and, accordingly, we do not provide an opinion thereon.

As part of obtaining reasonable assurance about whether the USPTO's fiscal year 2004 financial statements are free of material misstatement, we performed tests of the USPTO's compliance with certain provisions of laws, regulations, and contracts, and noncompliance with which could have a direct and material effect on the determination of financial statement amounts, and certain provisions of other laws, regulations, and contracts, specified in OMB Bulletin No. 01-02, including certain provisions referred to in FFMIA. We limited our tests of compliance to the provisions described in the preceding sentence, and we did not test compliance with all laws, regulations, and contracts applicable to the USPTO. Providing an opinion on compliance with laws, regulations, and contracts was not an objective of our audit and, accordingly, we do not express such an opinion.

Under OMB Bulletin No 01-02 and FFMIA, we are required to report whether the USPTO's financial management systems substantially comply with (1) federal financial management systems requirements, (2) applicable federal accounting standards, and (3) the United States Government Standard General Ledger at the transaction level. To meet this requirement we performed tests of compliance with FFMIA Section 803(a) requirements.

Distribution

This report is intended for the information and use of USPTO's management, U.S. Department of Commerce's Office of the Inspector General, OMB, the Government Accountability Office, and the U.S. Congress, and is not intended to be and should not be used by anyone other than these specified parties.

KPMG LLP

November 2, 2004

Management and Performance Challenges Identified by the Inspector General



INSPECTOR GENERAL'S STATEMENT SUMMARIZING THE MAJOR MANAGEMENT AND PERFORMANCE CHALLENGES FACING THE UNITED STATES PATENT AND TRADEMARK OFFICE

Jon W. Dudas

Under Secretary of Commerce for Intellectual Property

Director of the United States Patent and Trademark Office

We are providing our summary of OIG's top management challenges for the United States Patent and Trademark Office (USPTO) in accordance with the Reports Consolidation Act of 2000 (P.L. 106-531). Detailed information about our work is available on our web site at <http://www.oig.doc.gov/>.

Successfully Operate USPTO as a Performance-Based Organization

USPTO's successful operation as a performance-based organization remains a management challenge. It is essential that USPTO effectively use its expanded authority over budget allocations and expenditures, personnel decisions and processes, procurement, and information technology operations to process high-quality patents and trademarks in a timely manner. The inherent difficulties of successful operation as a performance-based organization coupled with our recent work indicate a number of areas that require management's attention.

For example, in our evaluation of patent examiner production goals, awards, and performance appraisal plans to determine their effect on employee output we found that (1) examiner goals have not changed since 1976 to reflect efficiencies in work processes; (2) examiners' appraisal plans are not linked to their supervisors' goals or to those of USPTO; and (3) examiner awards do not appear to be having their intended impact of stimulating production.

Likewise, in response to complaints and a related request from the agency's chief financial officer/chief administrative officer, we reviewed the Office of Human Resources' efforts to hire a human resources (HR) director and related matters. We found, among other things, that the process used to fill the position was seriously flawed and that USPTO needed to clarify its relationship with the Office of Personnel Management and establish sufficient HR policies and procedures.

Finally, we recently reviewed progress on construction of USPTO's headquarters complex in Alexandria, Virginia, and its relocation to these facilities. We found that USPTO and the General Services Administration have provided adequate management and financial oversight of the project; however, additional costs have been incurred and space planning for future growth has not been properly addressed.

Effectively Manage Acquisition Process

As Commerce entities' reliance on contractor-provided services increases, so does the challenge to effectively manage the streamlined acquisition processes these initiatives fostered, while ensuring that taxpayer dollars are wisely spent and laws and regulations followed.

PTO has been granted authority to make purchases and enter into contracts without regard to the Federal Acquisition Regulation. In 2003, PTO established the Patent and Trademark Acquisition Guidelines, which are designed to promote flexibility and innovation in procurements. As it utilizes this new authority, PTO needs to ensure that its managers are committed to proper acquisition oversight. Focused and sustained attention is necessary to ensure USPTO's effective and efficient utilization of the flexibilities provided to it as a performance-based organization.

Enhance Emergency Preparedness, Safety, and Security of Facilities and Personnel

USPTO along with other Commerce facilities in the Washington, D.C. area, and most federal entities across the nation has taken steps to improve the safety and security of its people and property. As it moves to complete and occupy its new headquarters facilities, USPTO must be sure to incorporate all the necessary security safeguards and to periodically reassess its security status and adjust protective measures accordingly.

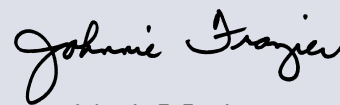
Sustain Progress in Information Technology Security

We are pleased to note that USPTO's material weakness for information security, cited as a management challenge in the past, has been resolved. USPTO reported all its mission-critical systems as certified and accredited, and our recent review conducted in accordance with FISMA confirmed the adequacy of its certification and accreditation materials.

And while noting that USPTO has made significant progress in information technology security, sustaining this progress and maintaining the security of its systems remains a management challenge for USPTO.

Continue to Improve Strategic Planning and Performance Measurement

Reliable and credible performance data are essential to the goal of linking program performance and budget decisions. We have previously noted the USPTO's strong commitment to report performance data and its use of internal controls to better ensure that the data it reports is reliable. USPTO should continue to take steps to enhance the credibility of its performance data.



Johnnie E. Frazier

Inspector General

Other Accompanying Information



THE NATURE OF THE TRAINING PROVIDED TO USPTO EXAMINERS

Achieving organizational excellence demands a high performance workforce that delivers high quality work products and provides customer service excellence. Training is a critical component in achieving consistently high quality products and services.

Patent examiners and Trademark examining attorneys received extensive legal, technical and automation training in fiscal year 2004. The USPTO has a comprehensive training program for new patent examiners and trademark examining attorneys, embedding a well-established curriculum including initial legal training, automation training and training in examination practice and procedure. Automation training is provided to all examiners on an as-needed basis. Technology-specific legal and technical training was conducted throughout the examining operations. This specific training either focused on practices particular to the technology or was developed to address training needs identified through Patent and Trademark training.

The USPTO training staff works one-on-one with the Patent and Trademark business units to address specific training concerns and serve as consultants to design specific internal programs to fit the education needs of each business unit. Training is reviewed and evaluated on an ongoing basis to insure it is up-to-date and that coursework reflects developments and changes that have taken place in the industry.

In fiscal year 2004 in Trademarks, data gathered from the results of quality reviews are being analyzed and used to prepare the content of online e-learning training materials for trademark examining attorneys. Seven e-learning modules have been developed in Trademarks.

- Concurrent User Applications (released)
- Section 2(d) - Likelihood of Confusion - Weak and Diluted Marks (released)
- Section 2(a): Scandalous and Disparaging Marks (released)
- Amendments to Goods and Services - Are They Within The Scope? (released)
- Section 2(d) - Likelihood of Confusion - Relatedness of Goods and Services: A General Framework (completed, not released)
- Section 2(d) - Likelihood of Confusion - Relatedness of Goods and Services: Evidence (completed, not released)
- Section 2(d) - Likelihood of Confusion - Relatedness of Goods and Services: Food and Beverages Goods and Services (completed, not released)

Reviewers continue to gather data regarding dozens of examination issues on each file they review to identify future training needs and support the Office goal to improve quality through in-process reviews.

PATENT EXAMINER TRAINING	
Procedural Training – Mandatory for all first year examiners	<p>Patent Examiner Initial Training and Introduction to Practice and Procedures</p> <p>Standardized training is provided to new patent examiners to teach them the basic skills and knowledge of the patent process, and practices and procedures such that they will be able to successfully examine a patent application. The examiner will also be able to provide an initial report to their supervisor on what is the claimed, as well as the disclosed invention contained in the application so as to permit him or her to perform a prior art search. The number of courses offered each year is based on the projected number of new examiners entering the patent business unit.</p>
Legal Training – Mandatory for all first year examiners	<p>Practice and Procedures Lectures covering the following topics:</p> <ul style="list-style-type: none"> ■ “Novelty” Requirements ■ “Non-Obviousness” Requirements ■ “Utility” Requirements ■ Restriction Practice ■ Unity of Invention ■ Double Patenting ■ Allowance and Issue ■ Appeals
Continuing Education – Courses are for students from all Technology Centers, some taught by TC personnel, some modified to include TC specific examples	<ul style="list-style-type: none"> ■ Review of Recent Court of Appeals for the Federal Circuit Decisions ■ Claim Interpretation ■ Update on Rule Changes
Legal Training – Technology Center Level courses taught by TC personnel, some developed within the TCs	<p>Examples include:</p> <ul style="list-style-type: none"> ■ 101 Training ■ 102/103 Training ■ Obviousness Type Double Patenting
Legal Training – Legal Courses	<ul style="list-style-type: none"> ■ Patent Law & Evidence
Examiner Technical Training (Technology Center Focused)	<ul style="list-style-type: none"> ■ Technology Fairs ■ Biotechnology ■ Computer Software and Hardware ■ Optics, Semiconductor, Electrical Engineering ■ Communication Technology

PATENT EXAMINER TRAINING *Continued*

Non-Duty Technical Training Program

Examples:

- Mathematical Methods for Physics

Automation Training

All first year examiners are provided mandatory initial automation training.

Examples:

IFW Classes

- IFW for Examiners (eDAN)
- IFW for Technical Support Staff (MADRAS)
- IFW for Coordinating Committee
- IFW Messaging for Supervisory Patent Examiners
- IFW Refresher Course

Non-IFW Classes

- Classification Data System Desktop Training
- ChemDraw
- Examiner Automated Search System (EAST) 1.3: New Features
- EAST and Bibliographic Retrieval System: The Fundamentals
- Office Action Correspondence System (OACS) 1.3: New Features
- OACS Basics
- OACS for Non-Typists
- OACS: Creating Personal Forms
- Chemical Searching for Non-chemists
- West: Refresher
- Microsoft® PowerPoint
- Microsoft® Outlook
- PALMExpo Overview

TC-Focused Classes

- EAST Databases
- EAST: Automated Searching for Design Examiners
- EAST and Optical Character Recognition
- OACS Basics for Design Examiners
- Non-Patent Literature (NPL) Web Resources in Your Art Area
- Classification and Security Review

Management Training

Examples include:

- Reviewing Cases
- Coaching
- Employee Relations Topics

TRADEMARK EXAMINING ATTORNEY TRAINING	
<p>Trademark Organization Training and Learning</p> <p>Legal Training – mandatory for all first year trademark-examining attorneys.</p>	<p>This course provides new trademark attorneys with basic knowledge of the Federal Trademark Act, examination procedures and automated search tools. Lectures and Activities cover the following topics:</p> <ul style="list-style-type: none"> ■ Trademark Law Overview ■ Refusals under Section 2(d) of Trademark Act (Likelihood of Confusion) ■ Refusals under Section 2(e)(1) of Trademark Act (Mere Descriptiveness/Deceptively Misdescriptive) ■ Refusals under Section 2(e)(2) of Trademark Act (Geographically Descriptive) ■ Refusals under Section 2(e)(3) of Trademark Act (Geographically Deceptively Misdescriptive) ■ Refusals under Section 2(e)(4) of Trademark Act (Primarily Merely Surname) ■ Refusals under Section 2(e)(5) of the Trademark Act (Functionality) ■ Requirements for Intent-to-Use Applications ■ Requirements for Use-Based Applications ■ Specimens and Use-Based Refusals ■ Requirements for Applications filed under Section 44 of the Trademark Act ■ Requirements for Applications filed under Section 66(a) of the Trademark Act ■ Identification and Classification of Goods and Services Practice ■ Legal Writing ■ Drawing Requirements ■ Options Practice – Section 2(f) of Trademark Act and Supplemental Register ■ Disclaimer Requirements ■ Evidence Practice ■ Refusals under Sections 2(a), (b) and (c) of Trademark Act ■ Madrid Protocol Practice ■ Ex Parte Appeal Practice Before the Trademark Trial and Appeal Board
<p>Automation Training</p>	<ul style="list-style-type: none"> ■ PTOnet System and Applications ■ X-Search Automated Trademark Search System

FISCAL YEAR 2004 USPTO WORKLOAD TABLES

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TABLE 1

SUMMARY OF PATENT EXAMINING ACTIVITIES

(As of September 30 of each fiscal year)

PATENT EXAMINING ACTIVITY	2000	2001	2002	2003	2004
Applications filed, total	311,807	344,717	353,394	355,418	376,810
Utility ¹	291,653	324,211	331,580	331,729	351,431
Reissue	805	956	974	938	800
Plant	786	914	1,134	785	1,111
Design	18,563	18,636	19,706	21,966	23,468
Provisional Applications Filed²	78,963	86,123	89,537	92,517	102,278
First actions					
Design	17,856	17,748	19,029	19,013	17,328
Utility, Plant, and Reissue	237,421	241,770	275,054	283,111	288,315
PCT/Chapter ¹	16,331	17,972	19,460	23,277	17,935
Patent application disposals, total	252,871	257,467	279,297	303,635	304,921
Allowed patent applications, total	182,888	183,394	189,191	205,879	195,611
Design	16,688	16,526	17,377	17,596	16,262
Utility, Plant, and Reissue	166,200	166,868	171,814	188,283	179,349
Abandoned, total	69,895	74,014	90,092	97,745	109,295
Design	1,839	1,448	1,675	1,569	1,471
Utility, Plant, and Reissue	68,056	72,566	88,417	96,176	107,824
Statutory invention registration disposals, total	88	59	14	11	15
PCT/Chapter II examinations completed	15,471	18,859	16,456	21,005	19,439
Applications Published³		25,359	169,729	243,007	248,561
Patents issued⁴	182,223	187,822	177,317	189,597	187,170
Utility	164,490	169,576	160,843	171,500	169,296
Reissue	561	504	466	394	343
Plant	453	563	912	1,178	998
Design	16,719	17,179	15,096	16,525	16,533
Pendency time of average patent application ⁵	25.0	24.7	24.0	26.7	27.6
Reexamination certificates issued	276	287	200	193	138
PCT international applications received by USPTO as receiving office	36,671	43,322	42,889	42,969	45,396
National requirements received by USPTO as designated/elected office	23,628	26,821	29,846	32,753	37,173
Patents renewed under Public Law (P.L.) 102-204 ⁶	206,255	205,117	194,143	253,475	269,815
Patents expired under P.L. 102-204 ⁶	47,958	49,077	53,724	57,770	63,552

¹ Utility patents include chemical, electrical and mechanical applications.

² Provisional applications provided for in P.L. 103-465.

³ Eighteen-month publication of patent applications provided for in the American Inventors Protection Act of 1999, P.L. 106-113.

⁴ Excludes withdrawn numbers.

⁵ Average time (in months) between filing and issuance or abandonment of utility, plant, and reissue applications. This average does not include design patents.

⁶ The provisions of P.L. 102-204 regarding the renewal of patents superceded P.L. 96-517 and P.L. 97-247.

TABLE 2

PATENT APPLICATIONS FILED
 (FY 1984 - FY 2004)

Year	Utility ^{1,2}	Design	Plant ²	Reissue ²	Total
1984	109,010	8,446	248	281	117,985
1985	115,893	9,504	244	290	125,931
1986	120,988	9,792	291	332	131,403
1987	125,677	10,766	364	366	137,173
1988	136,253	11,114	377	439	148,183
1989	150,418	11,975	418	495	163,306
1990	162,708	11,140	395	468	174,711
1991	166,765	10,368	414	536	178,083
1992	171,623	12,907	335	581	185,446
1993	173,619	13,546	362	572	188,099
1994	185,087	15,431	430	606	201,554
1995	220,141	15,375	516	647	236,679
1996	189,922	15,160	557	637	206,276
1997	219,486	16,272	680	607	237,045
1998	238,850	16,576	658	582	256,666
1999	259,618	17,227	759	664	278,268
2000	291,653	18,563	786	805	311,807
2001	324,211	18,636	914	956	344,717
2002	331,580	19,706	1,134	974	353,394
2003	331,729	21,966	785	938	355,418
2004³	351,431³	23,468³	1,111³	800³	376,810³

¹ Chemical, electrical, and mechanical applications.

² Utility, Plant, and Reissue applications revised from 1996 - 2000 to reflect the latest actual counts in PALM.

³ FY 2004 data is preliminary.

T A B L E 3

PATENT APPLICATIONS PENDING PRIOR TO ALLOWANCE ¹
(FY 1984 - FY 2004)

Year	Awaiting action by examiner	Total applications pending²
1984	90,687	219,567
1985	90,648	215,512
1986	80,547	207,774
1987	65,010	209,911
1988	75,678	215,280
1989	92,377	222,755
1990	104,179	244,964
1991	104,086	254,507
1992	112,201	269,596
1993	99,904	244,646
1994	107,824	261,249
1995	124,275	298,522
1996	139,943	303,720
1997	112,430	275,295
1998	224,446	379,484
1999	243,207	414,837
2000	308,056	485,129
2001	355,779	542,007
2002	433,691	636,530
2003	471,382	674,691
2004	528,685	756,604

¹ Includes patent applications pending at end of period indicated, and includes utility, reissue, plant, and design applications. Does not include allowed applications.

² Applications under examination, including those in preexamination processing.

TABLE 4

**PATENT PENDENCY STATISTICS
(FY 2004)**

UPR PENDENCY STATISTICS BY TECHNOLOGY CENTER (in months)	FIRST ACTION PENDENCY	TOTAL AVERAGE PENDENCY
Total UPR Pendency		
Tech Center 1600 - Biotechnology & Organic Chemistry	19.2	29.9
Tech Center 1700 - Chemical & Materials Engineering	17.9	27.6
Tech Center 2100 - Computer Architecture, Software & Information Security	33.3	41.1
Tech Center 2600 - Communications	31.4	40.5
Tech Center 2800 - Semiconductor, Electrical, Optical Systems & Components	14.0	23.9
Tech Center 3600 - Transportation, Construction, Agriculture, & Electronic Commerce	15.6	24.1
Tech Center 3700 - Mechanical Engineering, Manufacturing, Products & Design	15.2	24.1

TABLE 5

SUMMARY OF PENDING PATENT APPLICATIONS
(As of September 30, 2004)

Stage of processing	Utility, plant and reissue applications	Design applications	Total patent applications
Pending patent applications, total	808,900	28,958	837,858
In preexamination processing, total	100,049	4,420	104,469
Under examination, total	633,694	18,004	651,698
Undocketed	129,311	4,411	133,722
Awaiting first action by examiner	279,518	10,976	290,494
Rejected, awaiting response by applicant	165,477	2,000	167,477
Amended, awaiting action by examiner	46,450	528	46,978
In interference	352	0	352
On appeal, and other ¹	12,586	89	12,675
In postexamination processing, total	75,157	6,534	81,691
Awaiting issue fee	42,371	3,404	45,775
Awaiting printing ²	29,690	3,129	32,819
D-10s (secret cases in condition for allowance)	3,096	1	3,097

¹ Includes cases on appeal and undergoing petitions.

² Includes withdrawn cases.

TABLE 6

PATENTS ISSUED
 (FY 1984 - FY 2004)

Year	Utility ¹	Design	Plant	Reissue	Total
1984	66,753	4,935	174	287	72,149
1985	69,667	5,058	277	300	75,302
1986	71,301	5,202	227	263	76,993
1987	82,141	6,158	240	254	88,793
1988	77,317	5,740	283	244	83,584
1989	95,831	5,844	728	309	102,712
1990	88,974	7,176	295	282	96,727
1991	91,822	9,386	318	334	101,860
1992	99,405	9,612	336	375	109,728
1993	96,676	9,946	408	302	107,332
1994	101,270	11,138	513	347	113,268
1995	101,895	11,662	390	294	114,241
1996	104,900	11,346	338	291	116,875
1997	111,979	10,331	400	267	122,977
1998	139,298	14,420	577	284	154,579
1999	142,856	15,480	437	393	159,166
2000	164,490	16,719	453	561	182,223
2001	169,576	17,179	563	504	187,822
2002	160,843	15,096	912	466	177,317
2003	171,500	16,525	1,178	394	189,597
2004	169,296	16,533	998	343	187,170

¹ Includes chemical, electrical, and mechanical applications.

TABLE 7

**PATENT APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES ¹
(FY 2004)**

DATA IS PRELIMINARY

State/Territory	No. for 2004	State/Territory	No. for 2004	State/Territory	No. for 2004
Total	217,306	Kentucky	810	Oklahoma	831
		Louisiana	595	Oregon	3,677
Alabama	705	Maine	279	Pennsylvania	5,169
Alaska	64	Maryland	2,430	Rhode Island	545
Arizona	2,994	Massachusetts	7,309	South Carolina	1,009
Arkansas	304	Michigan	6,165	South Dakota	135
California	38,585	Minnesota	4,991	Tennessee	1,504
Colorado	3,590	Mississippi	272	Texas	10,411
Connecticut	3,089	Missouri	1,605	Utah	1,424
Delaware	624	Montana	231	Vermont	687
District of Columbia	172	Nebraska	408	Virginia	2,131
Florida	5,325	Nevada	1,026	Washington	5,825
Georgia	2,881	New Hampshire	1,055	West Virginia	229
Hawaii	169	New Jersey	5,676	Wisconsin	3,241
Idaho	2,332	New Mexico	549	Wyoming	112
Illinois	6,118	New York	10,214	Puerto Rico	54
Indiana	2,104	North Carolina	3,601	Virgin Islands	4
Iowa	1,069	North Dakota	123	U.S. Pacific Islands ²	1
Kansas	1,038	Ohio	5,369	United States ³	4
				Other ⁴	56,442

¹ Data include utility, plant, design, and reissue applications.

² Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

³ No State indicated in database.

⁴ State/Territory information not available.

TABLE 8

PATENTS ISSUED TO RESIDENTS OF THE UNITED STATES ¹
(FY 2004)

State/Territory	No. for 2004	State/Territory	No. for 2004	State/Territory	No. for 2004
Total	97,913	Kentucky	491	Oklahoma	545
		Louisiana	428	Oregon	1,970
Alabama	454	Maine	161	Pennsylvania	3,397
Alaska	58	Maryland	1,517	Rhode Island	362
Arizona	1,746	Massachusetts	4,109	South Carolina	609
Arkansas	172	Michigan	4,260	South Dakota	89
California	22,389	Minnesota	3,178	Tennessee	956
Colorado	2,366	Mississippi	164	Texas	6,424
Connecticut	1,760	Missouri	961	Utah	763
Delaware	411	Montana	144	Vermont	442
District of Columbia	78	Nebraska	255	Virginia	1,255
Florida	3,144	Nevada	482	Washington	2,544
Georgia	1,504	New Hampshire	699	West Virginia	116
Hawaii	106	New Jersey	3,517	Wisconsin	2,051
Idaho	1,831	New Mexico	394	Wyoming	60
Illinois	3,994	New York	6,788	Puerto Rico	25
Indiana	1,596	North Carolina	2,122	U.S. Pacific Islands ²	-
Iowa	771	North Dakota	61	United States ³	2
Kansas	512	Ohio	3,678	Virgin Islands	2

¹ Data include utility, plant, design, and reissue patents.

² Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

³ No State indicated in database.

TABLE 9

UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES ¹
(FY 2000 - FY 2004)

FY 2004 DATA IS PRELIMINARY

Residence	2000	2001	2002	2003	2004	Residence	2000	2001	2002	2003	2004
Total	136,102	154,205	160,036	158,162	159,504	Ethiopia	-	-	-	-	-
Albania	-	-	-	-	-	Falkland Islands	-	-	-	-	-
Algeria	1	2	-	1	-	Fiji	-	2	1	1	1
Andorra	-	3	3	2	1	Finland	1,475	1,799	2,045	1,866	1,279
Angola	-	-	1	-	-	French Polynesia	2	-	-	-	-
Anguilla	-	-	1	-	-	France	6,859	7,154	7,434	6,887	4,296
Antigua & Barbuda	-	-	-	-	-	French Guiana	-	-	-	-	-
Argentina	138	146	109	123	86	Gabon	-	-	-	-	-
Armenia	1	4	1	1	-	Georgia	1	5	3	5	3
Aruba	-	1	1	-	-	Germany	17,858	19,776	21,657	19,646	11,904
Australia	1,887	2,088	2,246	2,498	1,759	Ghana	-	-	1	-	-
Austria	887	945	1,134	1,009	627	Gibraltar	-	-	1	-	-
Azerbaijan	1	2	-	1	-	Greece	45	48	56	44	37
Bahamas	17	14	26	22	24	Grenada	-	-	-	1	-
Bahrain	1	-	-	1	1	Guadeloupe	-	-	-	-	-
Bangladesh	-	1	1	1	-	Guatemala	1	12	3	1	-
Barbados	7	4	4	-	7	Guyana	-	1	-	-	-
Belarus	11	4	8	6	7	Guinea	-	-	-	-	-
Belgium	1,338	1,341	1,435	1,420	884	Haiti	2	-	1	-	-
Belize	-	-	-	-	-	Honduras	1	1	-	-	3
Benelux Convention	-	-	-	-	-	Hungary	116	91	135	128	71
Bermuda	15	4	12	11	3	Iceland	39	39	40	49	36
Bolivia	-	1	1	-	1	India	389	636	813	1,105	937
Bosnia & Herzegovina	1	-	-	-	-	Indonesia	15	10	25	26	32
Botswana	-	-	-	-	-	Iran	1	4	4	5	2
Brazil	240	247	288	333	203	Iraq	-	1	1	-	-
British Virgin Islands	3	2	13	15	14	Ireland	339	401	448	382	311
Brunei	-	2	2	-	-	Israel	2,477	2,781	2,737	2,611	1,840
Bulgaria	23	10	10	8	74	Italy	3,031	3,185	3,336	3,325	2,208
Canada	7,146	7,802	7,967	8,138	6,705	Jamaica	2	1	2	3	3
Cayman Islands	4	8	10	1	5	Japan	54,365	62,676	61,259	61,177	46,267
Chile	28	29	44	27	42	Jordan	-	4	3	6	4
China (Hong Kong)	837	1,008	1,109	1,159	1,120	Kazakhstan	2	2	1	2	1
China (People's Republic)	437	694	966	1,230	1,132	Kenya	1	13	12	28	3
Columbia	24	28	26	22	16	Korea, Dem. Republic of	-	-	-	-	-
Cook Islands	-	-	-	-	-	Korea, Republic of	5,882	6,792	7,757	9,614	9,730
Costa Rica	29	8	18	17	15	Kuwait	10	6	11	7	4
Cote D'Ivoire	-	-	2	-	-	Kyrgyzstan	-	-	-	-	-
Croatia	18	22	20	23	17	Laos	-	-	-	-	-
Cuba	14	6	11	7	1	Latvia	2	5	2	2	3
Cyprus	2	7	5	7	5	Lebanon	4	9	11	6	5
Czech Republic	58	83	55	52	46	Lesotho	-	-	-	-	-
Czechoslovakia	-	-	-	-	-	Liechtenstein	26	33	28	34	16
Democratic Republic of the Congo	-	-	-	-	-	Lithuania	4	8	2	8	14
Denmark	941	1,130	1,227	1,145	700	Luxembourg	65	77	81	72	51
Djibouti	-	-	-	-	-	Macau	-	4	7	7	7
Dominica	2	-	-	-	1	Madagascar	-	2	-	-	-
Dominican Republic	4	1	3	5	6	Macedonia	3	2	-	-	3
Ecuador	6	8	11	9	5	Malaysia	94	144	136	237	238
Egypt	21	16	13	13	6	Maldives	-	-	-	-	-
El Salvador	2	3	1	2	2	Mali	-	-	-	-	-
EPO	-	-	-	-	-	Malta	1	6	5	3	2
Equatorial Guinea	-	-	-	-	1	Marshall Islands	-	1	-	-	-
Estonia	7	7	8	6	5	Mauritius	-	1	-	2	-
						Mexico	180	220	167	213	152
						Moldova	1	2	3	2	1

TABLE 9
CONT.

UNITED STATES PATENT APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES¹
(FY 2000 - FY 2004)

FY 2004 DATA IS PRELIMINARY

Residence	2000	2001	2002	2003	2004	Residence	2000	2001	2002	2003	2004
Monaco	26	29	27	29	10	Sierra Leone	-	-	-	-	-
Mongolia	-	-	-	-	-	Singapore	680	766	792	817	676
Montserrat	-	-	-	-	-	Slovakia	10	3	15	6	2
Morocco	5	1	1	5	3	Slovenia	27	21	21	55	32
Mozambique	-	-	-	-	1	Solomon Islands	-	-	-	-	-
Myanmar	-	-	-	-	-	South Africa	199	259	248	263	122
Namibia	-	-	-	-	-	Soviet Union	-	-	-	-	-
Nauru	-	-	-	-	-	Spain	595	611	690	633	460
Nepal	-	-	-	-	-	Sri Lanka	8	8	20	3	3
Netherlands	2,446	2,822	3,074	2,382	1,743	St. Lucia	-	1	1	-	-
Netherlands Antilles	-	1	1	1	1	Suriname	1	-	-	-	-
New Caledonia	-	-	3	-	-	Swaziland	-	-	-	-	-
New Zealand	296	355	402	473	202	Sweden	2,840	3,001	2,692	2,311	1,360
Nicaragua	-	1	-	-	-	Switzerland	2,318	2,494	2,560	2,362	1,525
Niger	-	-	-	-	-	Syria Arab Rep	3	-	3	4	-
Nigeria	5	7	3	4	2	Taiwan	10,380	12,403	13,761	14,537	13,129
Norfolk Island	-	-	1	-	-	Tanzania	1	1	1	1	-
Norway	465	452	587	470	275	Thailand	91	106	85	88	85
Oman	-	-	1	4	-	Trinidad & Tobago	8	1	1	4	-
Pakistan	6	2	6	6	8	Tunisia	-	1	3	2	3
Palau	-	-	1	-	-	Turkey	27	31	39	41	34
Panama	4	10	4	6	8	Turks and Caicos Islands	2	5	7	6	1
Paraguay	2	-	-	-	1	Uganda	-	-	-	-	-
Peru	6	8	9	7	2	Ukraine	23	39	46	39	27
Philippines	32	47	72	37	52	United Arab Emirates	6	2	11	10	14
Poland	35	43	46	48	58	United Kingdom	7,613	8,464	9,238	8,215	5,013
Portugal	22	27	31	22	15	Uruguay	2	7	8	10	6
Qatar	-	-	1	1	4	Uzbekistan	3	-	3	1	1
Romania	10	13	9	10	12	Vatican City	-	-	1	-	-
Russian Federation	384	417	403	345	195	Venezuela	42	65	41	30	18
Saint Kitts & Nevis	2	2	1	6	-	Vietnam	1	5	1	1	2
San Marino	-	1	-	-	-	Yemen	-	-	-	-	-
Saudi Arabia	24	32	35	33	20	Yugoslavia	7	4	8	10	2
Senegal	-	-	-	-	-	Zimbabwe	1	1	2	1	2
Seychelles	-	1	-	3	1	Other ²	-	-	-	-	41,389

- Represents zero.

¹ Data include utility, design, plant, and reissue applications. Country listings include possessions and territories of that country unless listed separately in the table.

² Country of origin information not available.

³ Revised from FY 1999 Report.

TABLE 10

**PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES¹
(FY 2000 - FY 2004)**

Residence	2000	2001	2002	2003	2004	Residence	2000	2001	2002	2003	2004
Total	81,675	86,203	83,970	89,699	89,257	Ghana	-	-	-	-	-
Albania	1	-	-	-	-	Gibraltar	1	-	-	-	-
Algeria	-	1	-	-	1	Greece	22	23	21	26	15
Andorra	-	-	1	1	1	Guadeloupe	-	-	-	-	-
Angola	-	-	-	-	1	Guatemala	2	-	5	3	-
Anguilla	-	-	-	-	-	Guinea	1	-	-	-	-
Antigua & Barbuda	1	-	-	-	-	Haiti	-	-	-	-	-
Arab Emirates	-	-	-	-	3	Honduras	1	-	2	1	-
Argentina	65	58	54	68	57	Hungary	41	57	49	67	62
Armenia	1	1	1	2	1	Iceland	15	23	17	17	18
Aruba	2	-	1	-	1	India	123	159	254	338	366
Australia	885	1,041	955	1,040	1,079	Indonesia	15	9	14	13	12
Austria	544	653	535	627	606	Iran	-	1	1	-	-
Azerbaijan	1	-	-	-	2	Ireland	128	174	136	187	190
Bahamas	13	12	14	6	11	Israel	856	1,023	1,042	1,265	1,157
Bahrain ²	3	-	-	-	-	Italy	1,915	2,052	1,945	2,015	2,009
Bangladesh	-	-	-	1	-	Ivory Coast	-	-	-	-	1
Barbados	-	2	6	2	-	Jamaica	2	1	2	1	1
Belarus	4	5	3	6	2	Japan	34,563	34,875	34,954	37,862	37,734
Belgium	807	805	772	762	698	Jordan	-	3	1	1	2
Bermuda	-	5	4	7	4	Kazakhstan	4	3	2	1	2
Bolivia	3	-	-	1	-	Kenya	1	4	3	7	18
Bosnia and Herzegovina	-	1	1	-	-	Korea, Dem. Republic of	-	-	-	-	-
Brazil	122	127	113	150	192	Korea, Republic of	3,699	3,783	3,755	4,198	4,590
British Virgin Islands	1	1	-	8	10	Kuwait	11	4	11	5	6
Brunei	-	-	1	-	-	Kyrgyzstan	-	2	-	-	-
Bulgaria	2	5	1	9	8	Latvia	2	-	1	2	4
Canada	4,060	4,157	3,809	3,869	3,980	Lebanon	3	4	2	6	3
Cayman Islands	6	6	6	11	2	Liechtenstein	19	22	15	20	17
Chile	15	15	13	16	17	Lithuania	2	4	2	4	3
China (Hong Kong)	540	603	546	667	672	Luxembourg	48	46	52	55	56
China (Mainland)	143	239	347	442	551	Macau	-	-	-	6	2
Colombia	6	13	14	11	11	Macedonia, Former	-	-	-	1	-
Cook Islands	-	-	-	-	-	Madagascar	1	1	1	-	-
Costa Rica	12	8	10	10	7	Malaysia	51	51	57	65	86
Croatia	11	8	10	14	9	Malta	2	2	-	3	2
Cuba	1	4	8	8	4	Marshall Islands	-	-	1	-	-
Cyprus	1	1	-	1	2	Mauritius	1	-	-	-	-
Czech Republic	42	32	24	38	40	Mexico	107	95	93	92	113
Czechoslovakia	8	7	4	-	1	Moldova, Republic	-	-	1	1	4
Denmark	536	532	569	609	580	Monaco	14	21	16	12	16
Dominica	1	2	-	-	-	Morocco	2	2	-	1	1
Dominican Republic	2	3	-	1	-	Myanmar	-	-	-	-	-
Ecuador	-	3	1	5	2	Namibia	1	-	-	-	-
Egypt	6	10	4	6	4	Netherlands	1,484	1,465	1,604	1,640	1,619
El Salvador ²	-	3	-	-	2	Netherlands Antilles	2	-	2	1	-
Estonia	2	4	5	4	2	New Caledonia	-	-	-	-	-
Faroe Islands	-	-	-	-	-	New Guinea	-	-	-	1	-
Fiji	-	-	1	2	1	New Zealand	149	147	162	171	187
Finland	679	778	805	904	1,002	Nicaragua	-	-	-	-	1
France	4,392	4,576	4,289	4,228	3,846	Nigeria	2	-	3	5	2
French Guiana	-	-	-	-	-	Norfolk Island	-	-	-	-	-
French Polynesia	-	1	1	-	-	Norway	266	292	262	277	271
Georgia	1	2	1	3	4	Pakistan	4	2	2	1	3
Germany	10,978	12,128	11,529	12,361	11,623	Panama	3	1	1	2	2
						Paraguay	-	-	-	-	-

TABLE 10
CONT.

PATENTS ISSUED BY THE UNITED STATES TO RESIDENTS OF FOREIGN COUNTRIES¹
(FY 2000 - FY 2004)

Residence	2000	2001	2002	2003	2004	Residence	2000	2001	2002	2003	2004
Peru	4	6	1	5	5	Switzerland	1,516	1,574	1,489	1,513	1,406
Philippines	17	14	20	17	28	Syrian Arab Rep	4	1	1	1	1
Poland	9	20	14	16	18	Taiwan	5,578	6,766	6,346	6,719	7,376
Portugal	10	16	12	12	16	Tanzania	-	1	-	2	-
Palau	1	-	-	-	1	Thailand	36	46	49	53	33
Qatar	1	-	-	-	-	Trinidad & Tobago	-	2	2	2	-
Romania	4	10	5	8	8	Tunisia	-	-	1	-	1
Russian Federation	192	242	198	208	187	Turkey	5	14	16	21	31
Saint Kitts & Nevis	1	2	1	1	-	Turks and Caicos Islands	1	1	1	2	1
Saint Vincent/The Grenadines	-	-	-	-	-	Uganda	-	1	1	-	-
San Marino	-	-	-	-	-	Ukraine	13	28	28	14	21
Saudi Arabia	21	13	8	20	13	United Arab Emirates	3	7	6	3	-
Singapore	220	299	392	443	498	United Kingdom	4,241	4,425	4,076	4,110	4,044
Slovakia	3	3	8	5	6	Uruguay	-	1	3	1	1
Slovenia	18	22	16	16	23	Uzbekistan	3	2	1	-	1
South Africa	145	144	107	145	107	Venezuela	31	33	27	23	24
Soviet Union	3	-	1	-	-	Vietnam	1	-	5	1	1
Spain	321	350	350	341	337	Yemen	-	-	1	-	-
Sri Lanka	2	5	5	14	2	Yugoslavia	4	4	5	1	1
Suriname	1	1	-	-	-	Democratic Republic of the Congo	-	-	-	-	-
Sweden	1,805	1,946	1,824	1,708	1,452	Zimbabwe	1	1	1	1	-

- Represents zero.

¹ Data include utility, design, plant, and reissue patents. Country listings include possessions and territories of that country unless separately listed in the table.

² Revised from FY 1999 Report.

TABLE 11

STATUTORY INVENTION REGISTRATIONS (SIRs) PUBLISHED
(FY 2000 - FY 2004)

Assignee	2000	2001	2002	2003	2004
Air Force	-	11	8	2	5
Army	2	4	1	-	1
Energy	1	2	1	-	-
Navy	5	20	10	6	4
Health & Human Services	-	-	-	1	-
USA ¹	-	1	1	-	-
Other Than U.S. Government	50	93	32	25	17
Total	58	131	53	34	27

- Represents zero.

¹ United States of America - no agency indicated in database.

TABLE 12

UNITED STATES GOVERNMENT AGENCY PATENTS¹
(FY 2000 - FY 2004)

AGENCY	2000	2001	2002	2003	2004	TOTAL
Agriculture	57	66	46	58	51	278
Air Force	79	103	66	75	54	377
Army	151	151	149	140	130	721
Attorney General	-	-	-	1	-	1
Commerce	19	21	21	13	9	83
Energy	53	68	52	43	46	262
EPA	7	11	8	5	11	42
FCC	-	-	1	-	-	1
HEW/HHS	121	99	92	84	125	521
Interior	5	7	7	13	7	39
Library of Congress	-	-	-	-	-	0
NASA	98	92	82	82	98	452
Navy	369	326	362	359	353	1,769
NSA	17	11	11	15	10	64
NSF	-	-	-	-	1	1
Postal Service	-	2	-	4	3	9
State Department	-	1	-	-	-	1
Transportation	3	-	1	5	1	10
Treasury	-	-	-	-	-	0
TVA	3	3	-	2	1	9
USA ²	1	1	-	1	-	3
VA	-	1	2	4	1	8
Total	983	963	900	904	901	4,651

- Represents zero.

¹ Data in this table represent utility patents assigned to agencies at the time of patent issue.

² United States of America - no agency indicated in database.

TABLE 13 A

**EX PARTE REEXAMINATION
(FY 2000 - FY 2004)**

ACTIVITY	2000	2001	2002	2003	2004
Requests filed, total	318	296	272	392	441
By patent owner	137	144	121	136	166
By third party	172	150	140	239	268
Commissioner ordered	9	2	11	17	7
Determinations on requests, total	338	342	272	381	419
Requests granted:					
By examiner	320	263	262	360	408
By petition	2	2	1	1	0
Requests denied	16	77	9	20	11
Requests known to have related litigation	80	80	52	109	138
Filings by discipline, total	318	296	272	392	441
Chemical	96	90	87	124	130
Electrical	103	89	78	118	156
Mechanical	119	117	107	150	155

TABLE 13 B

**INTER PARTES REEXAMINATION
(FY 2001 - FY 2004)**

ACTIVITY	2001	2002	2003	2004
Requests filed, total	1	4	21	27
Determinations on requests, total	-	5	20	25
Requests granted:				
By examiner	-	-	18	25
By petition	-	-	-	-
Requests denied	-	-	2	-
Requests known to have related litigation	-	-	4	5
Filings by discipline, total	1	4	21	27
Chemical	1	2	3	6
Electrical	-	-	7	7
Mechanical	-	2	11	14

TABLE 14

SUMMARY OF CONTESTED PATENT CASES
(Within the U.S. Patent and Trademark Office, as of September 30, 2004)

ITEM	TOTAL
Ex parte cases	
Appeals ¹	
Cases Pending as of 9/30/04	1,968
Cases Filed During FY 2004	2,469
Disposals During FY 2004, total	
Decided, total	3,452
Affirmed	1,282
Affirmed-in-Part	401
Reversed	1,290
Dismissed/Withdrawn	80
Remanded	399
Cases Pending as of 9/30/04	985
Rehearings	
Cases Pending as of 9/30/04	17
Inter partes cases	
Cases pending as of 9/30/04	107
Cases declared or reinstated during FY 2004	86
Inter partes cases, FY 2004 total	193
Cases terminated during FY 2004	117
Cases pending as of 9/30/04	76

¹ Jurisdiction of an appeal passes to the Board of Patent Appeals and Interferences after the examiner has written the answer and after the time for filing a reply brief to the answer has passed.

TABLE 15 **SUMMARY OF TRADEMARK EXAMINING ACTIVITIES**
(FY 2000 - FY 2004)

ITEM	2000	2001	2002	2003	2004
Applications for Registration:					
Applications including Additional Classes	375,428	296,388	258,873	267,218	298,489
Applications Filed	296,490	232,939	207,287	218,596	244,848
Disposal of Trademark Applications:					
Registrations including Additional Classes	127,794	124,502	164,457	185,182	155,991
Abandonments including Additional Classes	101,099	142,973	120,102	119,858	109,931
Trademark First Actions including Additional Classes	352,325	464,618	253,187	276,568	268,865
Applications Approved for Publication including Additional Classes	203,251	235,419	217,487	168,235	186,271
Certificates of Registration Issued:¹					
1946 Act Principal Register	73,888	61,152	81,096	83,022	65,797
Principal Register					
ITU-Statements of Use Registered	27,170	36,188	45,064	54,046	49,479
1946 Act Supplemental Register	5,325	4,974	7,065	6,356	4,780
Total Certificates of Registration	106,383	102,314	133,225	143,424	120,056
Renewal of Registration:*					
Section 9 Applications Filed	24,435	24,174	34,325	35,210	32,352
Section 8 Applications Filed**	24,099	24,167	34,271	34,189	32,389
Registrations Renewed	8,821	31,477	29,957	34,370	34,735
Affidavits, Sec. 8/15:					
Affidavits Filed	28,920	33,547	39,484	43,151	41,157
Affidavits Disposed	28,894	37,092	35,375	39,603	40,765
Affidavits for Benefits:					
Under Sec. 12(c)				1	9
Published Under Sec. 12(c)	3	15	26	5	4
Amendments to Allege Use Filed	8,971	8,582	8,261	8,458	9,414
Statements of Use Filed	36,119	47,811	53,974	67,222	57,731
Notice of Allowance Issued	120,177	120,166	158,868	139,332	108,684
Total Active Certificates of Registration	1,020,126	1,063,164	1,116,200	1,184,888	1,216,691
Pendency - Average Months:					
Between Filing and Examiner's First Action	5.7	2.7	4.3	5	6.6
Between Filing, Registration (Use Applications)					
Abandonments, and NOA's - including suspended and inter partes proceedings	17.3	17.8	19.9	19.8	19.5
Between Filing, Registration (Use Applications)	16.0	16.4	18.3	16.2	16.2
Abandonments, and NOA's - excluding suspended and inter partes proceedings					

¹ With the exception of Certificates of Registration, Renewal of Registration, Affidavits filed under Section 8/15 and 12(c), the workload count includes extra classes.

"Applications filed" refers simply to the number of individual trademark applications received by the PTO. There are, however, 47 different classes of items in which a trademark may be registered. An application must request registration in at least one class, but may request registration in multiple classes. Each class application must be individually researched for registrability. "Applications filed, including additional classes" reflects this fact, and therefore more accurately reflects the Trademark business workload. With the exception of Certificates of Registration, Renewal of Registration, Affidavits filed under Section 8/15 and 12(c), the workload count includes extra classes.

*Renewal of registration is required beginning 10 years following registration concurrent with 20 - year renewals coming due.

**Section 8 Affidavit is required for filing a renewal beginning October 30, 1999 (FY 2000) with the implementation of the Trademark Law Treaty.

Workload Sources:

Applications Filed are taken from the TRAMPY10AR01 Report.
Registration and Post Registration data is taken from the TRAM Megaspec TMIIMC38-PO1 and TMIFY15-PO1 Report.
Abandonments are taken from the TRAM TMIIMR08 - PO1 Report.
First Actions and Approvals for Publication are taken from the TRAM Progress Summary Report.
Pendency is taken from the TRAM Examination Pendency Plus Suspended/Inter Partes Cases TMIPE05-PO3.
Statements of Use are taken from the TRAM TMIFY20-PO1 Report.
Notices of Allowance Issued are taken from the TMAM TMIFY25-PO1 Report.
Total Active TM registrations are taken from the TMIIXS40-01TRAM Data Base Statistics report.

TABLE 16

**TRADEMARK APPLICATIONS FILED FOR REGISTRATION
AND RENEWAL AND TRADEMARK AFFIDAVITS FILED
(FY 1984 - FY 2004)**

YEAR	FOR REGISTRATION	FOR RENEWAL	SECTION 8 AFFIDAVIT	SEC. 12(C) AFFIDAVIT
1984	61,480	5,926	13,519	5
1985	64,677	5,275	8,823	29
1986	69,253	5,660	8,519	19
1987	70,002	5,871	16,644	34
1988	76,813	6,763	18,316	23
1989	83,169	6,127	17,986	104
1990	127,294	6,602	20,636	5
1991	120,365	5,634	25,763	1
1992	125,237	6,355	20,982	25
1993	139,735	7,173	21,999	5
1994	155,376	7,004	20,850	4
1995	175,307	7,346	23,497	-
1996	200,640	7,543	22,169	6
1997	224,355	6,720	20,781	2
1998	232,384	7,413	33,231	-
1999	295,165	7,944	33,104	-
2000	375,428	24,435*	28,920	-
2001	296,388	24,174*	33,547	4
2002	258,873	34,325	39,484	-
2003	267,218	35,210	43,151	1
2004	298,489	32,352	41,157	9

- Represents zero.

* Concurrent 10 and 20 year renewal of registration.

Registration and Post Registration data is taken from the TRAM Megaspec TMIIMC38-P01 and TMIIFY15-P01 Report.

TABLE 17

SUMMARY OF PENDING TRADEMARK APPLICATIONS

(As of September 30, 2004)

STAGE OF PROCESSING	APPLICATION FILES	CLASSES
Pending applications, total	450,294	590,155
In preexamination processing	123,160	147,792
Under examination, total	244,608	332,549
Applications under initial examination	97,212	128,387
Amended, awaiting action by Examiner	93,312	123,837
Awaiting first action by Examiner	3,900	4,550
Intent-To-Use applications pending Use	100,860	137,486
Applications under second examination	8,350	11,258
Administrative processing of Statements of Use	1,440	1,833
Undergoing second examination	1,558	1,968
Amended, awaiting action by Examiner	5,352	7,457
Other pending applications ¹	38,186	55,418
In postexamination processing	82,526	109,814
(Includes all applications in all phases of publication and issue and registration)		

¹ Includes applications pending before the Trademark Trial and Appeal Board, and suspended cases.

T A B L E 1 8

TRADEMARKS REGISTERED, RENEWED, AND PUBLISHED UNDER SECTION 12(C)¹
(FY 1984 - FY 2004)

YEAR	CERTIFICATES OF REGIS. ISSUED	RENEWED	PUBLISHED UNDER 12(C)	REGISTRATIONS (Incl Classes)
1984	45,475	5,678	22	-
1985	63,122	5,177	27	-
1986	48,971	5,550	29	-
1987	47,522	4,415	24	-
1988	46,704	5,884	29	-
1989	51,802	9,209	84	-
1990	56,515	7,122	19	-
1991	43,152	6,416	19	-
1992	62,067	5,733	13	-
1993	74,349	6,182	21	86,122
1994	59,797	6,136	11	68,853
1995	65,662	6,785	4	75,372
1996	78,674	7,346	11	91,339
1997	97,294	7,389	11	112,509
1998	89,634	6,504	8	106,279
1999	87,774	6,280	3	104,324
2000	106,383	8,821	15	127,794
2001	102,314	31,477	11	124,502
2002	133,225	29,957	26	164,457
2003	143,424	34,370	5	185,182
2004	120,056	34,735	4	155,991

- Represents zero.

¹ Includes withdrawn numbers.

TABLE 19

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF THE UNITED STATES
(FY 2004)

State/Territory	No. for 2004	State/Territory	No. for 2004	State/Territory	No. for 2004
Total	251,657	Kentucky	1,343	Oklahoma	1,323
Alabama	1,383	Louisiana	964	Oregon	2,750
Alaska	129	Maine	711	Pennsylvania	7,598
Arizona	4,405	Maryland	4,248	Rhode Island	1,494
Arkansas	838	Massachusetts	7,614	South Carolina	1,650
California	53,081	Michigan	5,671	South Dakota	306
Colorado	5,125	Minnesota	5,480	Tennessee	3,091
Connecticut	4,772	Mississippi	457	Texas	13,024
Delaware	3,720	Missouri	3,578	Utah	2,358
District of Columbia	2,065	Montana	444	Vermont	478
Florida	15,343	Nebraska	1,033	Virginia	5,851
Georgia	6,526	Nevada	4,416	Washington	5,282
Hawaii	752	New Hampshire	1,104	West Virginia	280
Idaho	688	New Jersey	10,497	Wisconsin	3,329
Illinois	11,606	New Mexico	659	Wyoming	275
Indiana	2,770	New York	26,760	Puerto Rico	148
Iowa	1,252	North Carolina	4,204	Virgin Islands	45
Kansas	1,408	North Dakota	303	U.S. Pacific Islands ¹	8
		Ohio	6,724	United States ²	294

¹ Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

² No State indicated in data base, includes APO filings.

TABLE 20

**TRADEMARKS REGISTERED TO RESIDENTS OF THE UNITED STATES¹
(FY 2004)**

State/Territory	No. for 2004	State/Territory	No. for 2004	State/Territory	No. for 2004
Total	97,571	Kentucky	423	Oklahoma	415
		Louisiana	394	Oregon	840
Alabama	395	Maine	252	Pennsylvania	2,246
Alaska	59	Maryland	1,183	Rhode Island	364
Arizona	1,073	Massachusetts	1,865	South Carolina	434
Arkansas	221	Michigan	1,783	South Dakota	112
California	10,442	Minnesota	1,938	Tennessee	733
Colorado	1,313	Mississippi	130	Texas	3,367
Connecticut	800	Missouri	1,203	Utah	742
Delaware	22,108	Montana	99	Vermont	159
District of Columbia	689	Nebraska	317	Virginia	1,325
Florida	3,741	Nevada	1,726	Washington	1,750
Georgia	1,511	New Hampshire	259	West Virginia	79
Hawaii	134	New Jersey	2,231	Wisconsin	1,394
Idaho	202	New Mexico	156	Wyoming	121
Illinois	3,177	New York	5,797	Puerto Rico	66
Indiana	1,029	North Carolina	1,189	Virgin Islands	19
Iowa	506	North Dakota	70	U.S. Pacific Islands ²	-
Kansas	402	Ohio	2,544	United States ³	12,044

- Represents zero.

¹ When a trademark is registered, the trademark database is corrected to indicate the home state of the entity registering the trademark.

² Represents residents of American Samoa, Guam, and miscellaneous U.S. Pacific Islands.

³ No State indicated in data base, includes APO filings.

TABLE 21

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES
(FY 2000 - FY 2004)

Residence	2000	2001	2002	2003	2004	Residence	2000	2001	2002	2003	2004
Total	67,035	65,589	50,052	49,371	46,832	Dominican Republic	62	43	40	57	13
Albania	-	-	-	1	1	East Timor	-	-	-	1	-
Algeria	1	-	-	-	-	Ecuador	22	40	10	15	25
Andorra	3	1	5	3	-	Egypt	10	24	3	8	19
Angola	3	1	1	-	-	El Salvador	25	59	33	35	55
Anguilla	14	18	11	7	6	EPO	-	-	-	-	-
Antigua & Barbuda	15	43	30	-	2	Estonia	5	13	10	4	3
Argentina	326	246	189	266	202	Ethiopia	1	-	-	1	-
Armenia	9	8	1	-	1	Faroe Islands	-	-	-	-	-
Aruba	5	13	9	6	3	Fiji	1	-	10	3	2
Australia	2,321	1,731	1,478	1,794	1,845	Finland	473	656	442	336	275
Austria	632	604	743	444	401	France	4,860	4,636	3,546	3,473	2,427
Azerbaijan	-	-	-	-	5	French Guiana	-	-	1	-	-
Bahamas	148	153	220	158	139	French Polynesia	8	1	1	6	49
Bahrain	-	3	3	4	10	French South/Antarctic	-	-	-	-	-
Bangladesh	-	7	-	-	-	Gabon	-	-	-	-	-
Barbados	89	92	120	165	207	Georgia	7	12	1	1	2
Belarus	5	-	2	1	-	Germany	10,218	9,474	7,195	6,412	6,466
Belgium	619	548	454	425	266	Ghana	-	-	-	-	-
Belize	9	15	23	9	9	Gibraltar	31	12	11	21	24
Benelux Convention	8	-	2	-	-	Greece	92	22	46	44	236
Benin	-	-	-	-	3	Greenland	3	-	-	-	-
Bermuda	321	258	322	340	282	Grenada	3	3	1	-	-
Bolivia	6	2	4	1	2	Guadeloupe	-	-	1	2	2
Botswana	-	-	-	-	-	Guatemala	14	30	19	8	39
Brazil	357	443	472	400	453	Guinea	-	-	-	-	-
British Virgin Islands	696	363	259	202	151	Guyana	2	2	4	1	1
Brunei	-	1	-	-	-	Hague	-	-	-	-	-
Bulgaria	5	6	2	13	17	Haiti	-	8	6	5	8
Burundi	2	-	-	-	-	Honduras	3	4	1	6	5
Cambodia	6	1	1	-	1	Hong Kong	1,097	898	860	794	862
Cameroon	-	-	3	-	2	Hungary	31	48	35	33	40
Canada	9,844	8,086	6,765	6,838	7,365	Iceland	50	64	15	35	86
Cape Verde	-	-	-	2	-	India	252	214	267	291	260
Cayman Islands	265	190	117	113	81	Indonesia	31	50	37	45	24
Central African Republic	-	-	1	-	-	Iran	-	3	-	1	20
Channel Islands	110	65	72	50	27	Ireland	560	469	331	317	359
Chile	132	207	141	190	183	Isle of Man	38	34	55	27	27
China (mainland)	438	448	472	474	594	Israel	1,033	835	448	480	476
Christmas Island	4	-	2	-	-	Italy	2,548	2,380	1,919	2,115	1,577
Colombia	183	170	135	151	181	Jamaica	51	56	33	31	50
Comoros	3	1	-	-	-	Japan	4,273	9,008	4,450	4,342	4,239
Cook Islands	1	10	9	4	3	Jordan	7	13	14	6	18
Costa Rica	25	12	23	32	41	Kazakhstan	-	-	-	-	2
Cote d'Ivoire	-	-	1	-	-	Kenya	5	42	13	21	9
Croatia	9	7	10	6	10	Korea, Dem. Republic of	4	-	1	6	-
Cuba	1	1	2	-	2	Korea, Republic of	943	913	887	758	446
Cyprus	71	34	21	66	60	Kuwait	7	7	3	-	3
Czechoslovakia	50	39	58	55	59	Latvia	3	4	-	7	8
Democratic Republic of the Congo	-	-	-	-	-	Laos	-	-	-	-	-
Denmark	604	716	568	564	353	Lebanon	4	13	10	13	14
Djibouti	-	-	-	-	-	Liberia	3	-	-	-	-
Dominica	2	2	-	-	1	Liechtenstein	149	89	61	58	56
						Lithuania	2	3	3	1	1
						Luxembourg	198	135	186	130	134

TABLE 21
CONT.

TRADEMARK APPLICATIONS FILED BY RESIDENTS OF FOREIGN COUNTRIES
(FY 2000 - FY 2004)

Residence	2000	2001	2002	2003	2004	Residence	2000	2001	2002	2003	2004
Macao	-	-	-	-	1	Saint Lucia	-	-	2	-	2
Macau	-	1	3	5	-	Saint Pierre/Mique	-	-	-	-	-
Macedonia	-	1	-	1	-	Saint Vincent/Grenadines	1	14	1	-	1
Madagascar	-	-	1	-	2	Samoa	1	-	1	-	1
Malawi, Republic of	-	-	-	-	-	San Marino	-	6	-	-	3
Malaysia	94	66	60	28	98	Saudi Arabia	29	22	18	26	21
Mali	-	-	-	-	-	Scotland	51	95	82	94	35
Malta	26	6	3	29	10	Senegal, Republic of	-	1	-	-	-
Marshall Islands	-	2	-	-	4	Serbia/Montenegro	-	-	-	-	3
Martinique	1	1	1	-	-	Seychelles	1	5	5	1	1
Mauritania	2	-	-	-	-	Sierra Leone	-	-	-	-	-
Mauritius	61	30	38	44	46	Singapore	419	339	283	285	205
Mayotte	-	-	-	-	-	Slovakia	-	3	3	7	2
Mexico	809	982	1,026	994	1,103	Slovenia	18	8	36	38	13
Micronesia	1	-	1	-	-	Solomon Islands	-	4	-	-	-
Moldova	1	2	-	-	-	Somalia	-	-	-	-	-
Monaco	70	136	72	68	69	South Africa	263	206	170	175	194
Mongolia	3	-	-	3	1	Russian Federation	135	111	145	144	118
Montserrat	-	-	-	1	-	Spain	1,149	1,035	852	984	1,097
Morocco	2	-	1	2	2	Sri Lanka	28	7	6	10	20
Myanmar	-	-	-	1	-	Sudan	-	-	1	-	-
N. Mariana Island	-	-	3	1	4	Suriname	-	1	-	-	1
Namibia	-	3	1	-	-	Swaziland	7	57	-	1	1
Nauru	-	-	-	-	-	Sweden	1,722	1,490	836	919	658
Navassa Island	-	-	-	-	-	Switzerland	3,385	3,023	2,754	2,867	2,093
Nepal	-	5	9	-	-	Syria	-	-	-	-	1
Netherlands	2,220	2,063	1,596	1,331	1,088	Taiwan	1,283	1,060	1,143	1,259	1,424
Netherlands Antilles	92	64	55	30	22	Tajikistan	-	-	-	-	-
New Caledonia	-	1	-	-	-	Tanzania	-	-	-	-	-
New Hebrides	-	1	-	-	-	Thailand	82	78	103	153	127
New Zealand	324	359	292	362	535	Tokelau	-	1	-	-	-
Newfoundland	1	2	5	-	-	Tonga	-	-	-	-	-
Nicaragua	3	5	5	7	10	Trinidad & Tobago	8	11	9	11	3
Nigeria	9	-	15	6	1	Tunisia	4	1	-	3	-
Norway	317	319	206	178	159	Turkey	61	131	85	166	174
Oman	4	2	2	-	5	Turks and Caicos Islands	12	2	5	-	-
Pakistan	6	5	4	8	18	Uganda	-	-	1	7	-
Panama	20	36	47	46	108	Ukraine	6	17	2	29	19
Papua New Guinea	-	-	-	1	-	United Arab Emirates	19	61	31	24	21
Paraguay	4	4	2	2	28	United Kingdom	9,367	7,860	5,597	5,586	5,432
Peru	20	27	37	28	33	Uruguay	34	17	19	36	41
Philippines	15	42	31	12	26	Uzbekistan	-	-	-	-	1
Pitcairn Islands	-	-	-	-	-	Vanuatu	21	9	2	31	6
Poland	41	64	59	99	97	Venezuela	116	115	75	112	73
Portugal	110	134	106	133	77	Vietnam	14	5	55	79	60
Qatar	1	6	6	-	-	Yemen	-	-	-	-	1
Republic Moldova	-	-	-	22	2	Yugoslavia	-	-	4	-	10
Reunion	2	-	-	-	-	Yukon Territory	-	-	-	-	-
Romania	2	14	14	1	6	Zambia	-	-	-	-	-
St. Kitts & Nevis	-	-	-	-	-	Zimbabwe	1	2	2	2	1
Saint Christ-Nevis	-	-	6	2	2	Other ¹	66	547	257	143	82

- Represents zero.

¹ Country of Origin information not available or not indicated in database, includes ARIPO filings.

TABLE 22

TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES
(FY 2000- FY 2004)

Residence	2000	2001	2002	2003	2004	Residence	2000	2001	2002	2003	2004
Total	15,376	21,269	19,052	25,217	22,485	Faroe Islands	2	-	-	-	-
Afghanistan	-	1	-	-	2	Fiji	1	4	1	5	5
Algeria	1	-	-	-	-	Finland	111	135	159	200	163
Andorra	1	1	-	1	2	France	1,402	2,063	1,560	2,105	1,642
Angola, Republic of	-	3	2	-	-	French Polynesia	-	-	1	-	9
Anguilla	2	2	1	8	3	Gabon	-	-	1	-	-
Antigua & Barbuda	5	12	15	11	5	Georgia	7	7	8	10	5
Argentina	43	47	68	108	142	Germany	2,255	3,691	2,561	3,654	2,996
Armenia	-	2	5	6	3	Ghana	-	-	2	2	-
Aruba	-	-	1	2	2	Gibraltar	7	15	11	4	7
Australia	368	629	663	845	775	Greece	13	10	16	15	16
Austria	170	217	171	268	199	Greenland	-	-	-	-	-
Azerbaijan	-	-	-	-	-	Grenada	-	-	-	2	-
Bahamas	36	31	41	79	57	Guatemala	5	7	9	17	11
Bahrain	1	1	1	1	2	Guyana	2	-	1	3	5
Bangladesh	-	-	-	2	2	Hague	-	-	-	-	-
Barbados	9	22	26	38	56	Haiti	1	1	-	2	-
Belarus	1	-	1	2	-	Honduras	2	3	2	3	2
Belgium	135	211	205	272	194	Hong Kong	194	267	288	387	391
Belize	-	4	3	5	16	Hungary	6	8	10	13	16
Benelux Convention	2	-	1	2	-	Iceland	7	8	10	14	17
Bermuda	35	82	94	108	93	India	48	96	73	111	115
Bolivia	3	1	-	3	-	Indonesia	12	18	16	26	24
Bosnia & Herzegovina	-	-	-	2	-	Iraq	-	-	1	-	-
Brazil	59	55	110	160	181	Iran	8	5	8	7	2
British Virgin Islands	-	-	133	177	167	Ireland	76	135	107	151	133
Brunei Darussalam	-	-	1	-	-	Isle of Man	7	12	7	8	11
Bulgaria	2	2	5	4	4	Israel	167	226	262	380	248
Burundi	-	-	-	-	1	Italy	900	1,079	979	1,253	967
Cambodia	2	-	1	-	1	Jamaica	23	12	19	16	9
Cameroon	-	-	-	1	-	Japan	1,173	1,585	1,510	1,896	2,010
Canada	2,460	3,062	2,911	3,398	3,187	Jordan	-	6	9	3	3
Cayman Islands	29	47	43	85	81	Kenya	2	1	1	6	7
Central African Rep.	-	-	-	-	-	Kiribati	-	-	-	-	-
Channel Islands	10	7	50	40	-	Korea, Dem. Republic of	1	-	2	1	8
Chile	24	35	45	110	90	Korea, Republic of	222	251	283	431	470
China (mainland)	182	197	174	326	358	Kuwait	1	2	2	2	3
Colombia	21	44	58	69	59	Latvia	-	1	1	3	2
Comoros	-	-	-	-	-	Lebanon	4	6	2	7	9
Cook Islands	-	2	7	5	6	Liberia	17	12	13	13	13
Costa Rica	16	8	4	14	7	Libya	-	-	-	-	-
Cote D'Ivoire	-	-	-	-	1	Liechtenstein	-	38	30	43	48
Croatia	-	-	5	1	3	Lithuania	-	-	1	3	2
Cuba	3	4	4	8	4	Luxembourg	86	47	59	56	57
Cyprus	7	8	6	15	10	Macau	-	3	2	-	-
Czechoslovakia	13	18	22	30	24	Macedonia	-	-	2	-	1
Denmark	178	187	177	281	219	Malaysia	18	17	24	21	27
Dominica	-	-	-	-	-	Malta	1	-	1	4	9
Dominican Republic	19	18	24	19	26	Marshall Islands	-	-	-	-	3
Ecuador	16	13	9	18	8	Mauritania	-	-	-	-	1
Egypt	1	3	3	4	1	Mauritius	-	1	3	12	16
El Salvador	5	4	9	18	11	Mexico	316	308	342	435	396
Estonia	-	-	2	3	5	Micronesia	-	-	1	1	1
Ethiopia	-	2	1	1	-	Moldova	-	-	1	-	-
						Monaco	18	30	10	18	14

TABLE 22
CONT.

TRADEMARKS REGISTERED TO RESIDENTS OF FOREIGN COUNTRIES
(FY 2000- FY 2004)

Residence	2000	2001	2002	2003	2004	Residence	2000	2001	2002	2003	2004
Morocco	4	2	1	1	1	Slovakia	2	1	-	4	10
Myanmar	-	-	-	-	-	Slovenia	4	15	5	9	5
Namibia	-	-	1	1	1	South Africa	43	57	62	117	92
N. Mariana Island	-	-	-	1	1	Russian Federation	37	35	23	53	46
Netherlands	489	701	628	782	615	Spain	263	391	474	560	482
Netherlands Antilles	25	48	27	33	29	Spratly Islands	-	-	-	-	-
Nepal	-	-	-	3	-	Sri Lanka	5	5	9	3	5
New Zealand	88	113	97	196	165	Sudan	-	-	-	1	-
Nicaragua	1	1	6	1	4	Swaziland	-	2	-	1	1
Nigeria	11	17	7	5	4	Sweden	263	476	406	532	460
Norway	112	86	100	145	84	Switzerland	838	1,028	820	1,261	1,078
Oman	-	-	-	-	-	Syria	-	-	1	3	6
Pakistan	2	6	10	7	5	Taiwan	450	569	656	698	662
Panama	34	28	41	34	43	Thailand	24	42	43	55	62
Papua New Guinea	-	-	-	-	-	Tonga	-	-	-	-	1
Paraguay	2	1	2	1	-	Trinidad & Tobago	7	5	4	8	24
Peru	-	6	9	22	22	Tunisia	-	-	-	-	1
Philippines	10	12	12	25	23	Turkey	7	35	35	43	48
Poland	14	7	20	25	31	Turks and Caicos Islands	6	12	9	14	-
Portugal	37	39	40	64	60	Ukraine	-	3	4	6	4
Qatar	-	-	-	-	1	United Arab Emirates	5	3	9	6	10
Republic Moldova	-	-	-	1	-	United Kingdom	1,531	2,260	1,803	2,357	2,234
Romania	-	8	3	11	3	Upper Volta	-	-	-	-	1
Saint Christ & Nevis	-	-	-	6	15	Uruguay	1	2	12	9	12
St. Kitts & Nevis	3	1	-	-	-	Vanuatu	-	-	3	-	1
Saint Lucia	-	-	-	3	-	Vatican City	-	-	-	-	-
Saint Vincent/Grenadines	-	-	-	2	-	Venezuela	16	21	29	43	39
San Marino	3	-	-	1	-	Vietnam	6	-	5	21	35
Saudi Arabia	-	4	2	12	3	Western Samoa	-	-	1	1	1
Scotland	5	23	10	18	18	Yemen	-	-	-	-	-
Senegal	-	-	-	1	-	Yugoslavia	-	1	-	-	1
Seychelles	-	7	1	6	21	Zimbabwe	-	1	-	2	-
Sierra Leone	-	1	-	-	-	Other ¹	10	26	27	15	12
Singapore	44	76	82	95	102						

- Represents zero.

¹ Country of origin information not available.

TABLE 23

SUMMARY OF CONTESTED TRADEMARK CASES
(Within the U.S. Patent and Trademark Office, as of September 30, 2004)

ACTIVITY	EX PARTE	CANCELLATIONS	USE	INTERFERENCE	OPPOSITION	TOTAL
Cases pending as of 9/30/04, total	2,101	2,129	113	-	6,875	11,218
Cases filed during FY 2004	2,471	1,381	30	-	4,629	8,511
Disposals during FY 2004, total	2,039	1,744	41	-	5,047	8,871
Before hearing	1,607	1,707	41	-	4,922	8,277
After hearing	432	37	-	-	125	594
Cases pending as of 9/30/04, total	2,533	1,766	102	-	6,457	10,858
Awaiting decision	48	2	-	-	24	74
In process before hearing ¹	2,485	1,764	102	-	6,433	10,784
Requests for extension of time to oppose						23,213

- Represents zero.

¹ Includes suspended cases.

TABLE 24

**ACTIONS ON PETITIONS TO THE DIRECTOR OF THE USPTO
(FY 2000 - FY 2004)**

NATURE OF PETITION	FN	2000	2001	2002	2003	2004
Patent matters						
Actions on patent petitions, total	1	33,386	43,062	22,290	57,267	17,007
Acceptance of:						
Amendments filed after payment of issue fee		15	22	15	18	-
Late assignments		106	85	30	42	33
Late issue fees		-	1,332	1,676	2,362	1,441
Late priority papers		77	72	330	1,184	1,112
Access		24	4	6	3	-
Certificates of correction		14,111	22,157	0	32,455	-
Deferment of issue		68	25	21	40	40
Entity Status Change		888	986	836	-	1,621
Filing date		744	1,375	2,158	1,776	1,267
Interference		-	-	-	-	-
Make special:		-	-	-	-	-
Infringement/manufacture		-	-	3	-	-
Other		1,574	1,498	1,573	1,592	-
Miscellaneous		2,323	1,854	1,411	2,547	778
Maintenance fees		1,698	1,614	1,614	2,002	1,913
Public use		5	-	3	-	-
Reexamination proceedings		-	-	6	2	67
Restriction		73	42	102	82	-
Revivals		5,084	4,231	3,395	4,154	4,400
Rule 47 (37 CFR 1.47)		849	1,531	1,698	2,045	1,519
Supervisory authority		75	44	112	196	69
Suspend rules		942	875	1,052	1,441	1,006
Withdrawal of attorney		1,401	2,002	2,530	3,749	-
Withdrawal from issue		1,212	991	1,178	881	1,451
Change of inventorship		147	121	186	228	-
Withdrawals of holding of aband./pat. lapse		1,970	2,201	2,355	468	290
Trademark matters						
Actions on trademark petitions, total		6,858	10,374	24,699	18,493	17,791
Affidavits of Use and extensions		31	-	1	3	-
Decision by examiner		6	23	14	20	23
Filing date restorations ²		1,311	1,785	846	495	270
Grant application filing date		66	25	29	21	8
Inadvertently issued registrations		233	325	654	516	220
Interferences		2	1	2	-	-
Letters of Protest*		-	-	-	-	765
Make special		157	199	133	138	167
Miscellaneous		40	23	40	46	74
Oppositions and extensions		-	6	3	4	1
Record documents affecting title		-	2	1	4	-
Reinstatements ³		2,130	2,043	6,304	3,845	2,972
Restore jurisdiction to examiner		3	2	2	8	19
Review board decisions		6	13	10	14	5
Revive		2,673	5,633	16,222	12,771	12,476
Section 7 correction/amendment		-	10	17	10	16
Section 9 renewal		3	13	14	28	21
Section 8 or 15		61	60	75	61	86
Section 44(e) Amendment		102	183	317	493	622
Review Letter of Protest Decision		3	8	4	2	4
Waive fees/refunds		31	20	11	14	42
Petitions awaiting action as of 9/30/04		1,458	699	1,844	2,317	
Patent matters		158	503	2,197	354	253
Trademark petitions awaiting response		3,199	6,060	582	1,791	2,179
Trademark petitions awaiting action		189	24	12	8	1
Trademark pending filing date issues						

- Represents zero.

¹ Correction to FY 1999 Report.

² Trademark Applications entitled to a particular filing date; based on clear evidence of Office error.

³ Trademark Applications restored to pendency; inadvertently abandoned by the Office.

* Not reported in previous years.

TABLE 25

CASES IN LITIGATION

(Selected Courts of the United States, as of September 30, 2004)

	PATENTS	TRADEMARKS	OED	TOTAL
United States District Courts				
Civil actions pending as of 9/30/03, total	9	3	1	13
Filed during FY 2004	19	3	-	22
Disposals, total	12	5	-	17
Affirmed	1	-	-	1
Reversed	-	-	-	-
Remanded	-	2	-	2
Dismissed	9	1	-	10
Amicus/intervene	-	-	-	-
Transfer	2	2	-	4
Civil actions pending as of 9/30/04, total	16	1	1	18
United States Courts of Appeals¹				
Ex parte cases				
Cases pending as of 9/30/03	28	6	0	34
Cases filed during FY 2004	42	11	4	57
Disposals, total	42	10	3	55
Affirmed	24	4	-	28
Reversed	-	-	-	-
Remanded	6	-	-	6
Dismissed	10	6	2	18
Transfer	1	-	1	2
Writs of mandamus:	1	-	-	1
Granted	-	-	-	-
Granted-in-part	-	-	-	-
Denied	1	-	-	1
Dismissed	-	-	-	-
Total ex parte cases pending as of 9/30/04	28	7	1	36
Inter partes cases				
Cases pending as of 9/30/04	10	6	-	16
Cases filed during FY 2004	11	18	-	29
Disposals, total	11	9	-	20
Affirmed	5	6	-	11
Reversed	-	-	-	-
Remanded	1	-	-	1
Dismissed	4	3	-	7
Amicus/intervene	-	-	-	-
Transferred	1	-	-	1
Total inter partes cases pending as of 9/30/04	10	15	-	25
Total United States Courts of Appeals cases pending as of 9/30/04	38	22	1	61
Supreme Court				
Ex parte cases				
Cases pending as of 9/30/04	-	-	-	-
Cases filed during FY 2004	2	-	-	2
Disposals, total	1	-	-	1
Cases pending as of 9/30/04, total	1	-	-	1
Notices of Suit filed in FY 2004	2,613	2,920	-	5,533

- Represents zero.

¹ Includes Federal Circuit and others.

TABLE 26

**PATENT CLASSIFICATION ACTIVITY
(FY 2000 - FY 2004)**

ACTIVITY	2000	2001	2002	2003	2004
Original patents professionally reclassified - completed projects	53,437	39,209	19,621	10,802	20,370
Subclasses established	1,869	1,878	780	2,023	552
Reclassified patents clerically processed, total	128,362	145,090	61,433	212,798	59,617
Original U.S. patents	49,231	51,266	13,155	16,202	20,555
Cross-reference U.S. patents	70,302	84,611	38,868	189,274 ¹	38,183
Foreign patents	8,829	9,213	9,410	7,322	879

¹ FY 2003 cross-reference U.S. patents includes 1,700 EULA based subclasses that were added to the semi conductor classes in USPC.

TABLE 27

**SCIENTIFIC AND TECHNICAL INFORMATION CENTER ACTIVITY
(FY 2004)**

ACTIVITY	QUANTITY
Prior Art Search Services Provided:	
Automated Prior Art Searches Completed	17,179
On-line and Manual Foreign Patent Searches Completed	1,929
Genetic Sequence Searches Completed	10,718
Number of Genetic Sequences Searched	34,994
CRF Submissions Processed	14,355
PLUS Searches Completed	11,873
Document Delivery Services Provided:	
Document Delivery/Interlibrary Loan Requests Processed	47,064
Documents Provided Using Electronic Tools	11,449
Copies of Foreign Patents Provided:	3,207
Copies Purchased by the Public	379
Copies Provided to USPTO Staff	2,828
Foreign Patents Provided Using Electronic Tools	2,972
Information Assistance and Automation Services:	
One-on-One Examiner Assistance	22,589
Foreign Patents Assistance for Examiners and Public	1,879
Examiner Briefings	2,919
Number of STIC Web pages	950
Translation Services Provided for Examiners:	
Written Translations of Documents	5,581
Number of Words Translated (Written)	16,013,979
Documents Orally Translated	6,531
Collection Usage and Growth:	
Print/Electronic (NPL) Collection Usage	335,717
Print Books/Subscriptions Purchased	20,622
Print/Microform Foreign Patents Added to Collections	48,454
Full Text Electronic Journal Titles Available	11,680
Full Text Electronic Book Titles Available	5,320
NPL Databases Available for Searching (est.)	1,492
Foreign Patent Databases/Web Sites Accessed	17

Glossary of Acronyms and Abbreviation List



ABC	Activity-Based Cost Accounting	IG	Inspector General
ABM	Activity-Based Management	IIFI	International Intellectual Property Institute
AIPA	American Inventors Protection Act	IP	Intellectual property
ASEAN	Association of South East Asian Nations	IPR	Intellectual property rights
ATO	Authority to operate	IT	Information technology
BPAI	Board of Patent Appeals and Interferences	JCCT	Joint Commission on Commerce and Trade
C&A	Certification and accreditation	JPO	Japan Patent Office
CEAR	Certificate of Excellence in Accountability Reporting	KSA	Knowledge, skills, and abilities
EAST	Examiner Automated Search System	OACS	Office Action Correspondence System
EFT	Electronic Funds Transfer	OBRA	Omnibus Budget Reconciliation Act
EPO	European Patent Office	OHIM	Office for Harmonization in the Internal Market
FAS	Foreign Agricultural Service	OHR	Office of Human Resources
FASAB	Federal Accounting Standards Advisory Board	OIG	Office of the Inspector General
FFMIA	Federal Financial Management Improvement Act	OMB	Office of Management and Budget
FMFIA	Federal Managers' Financial Integrity Act	OPF	Official Personnel Files
FTA	Free Trade Agreement	OPM	Office of Personnel Management
FY	Fiscal year	PAIR	Patent Application Information Retrieval
GI	Geographical indication	PALM	Patent Application Location and Monitoring
GPRA	Government Performance and Results Act	PAR	Performance and accountability report
GSA	General Services Administration	PCT	Patent Cooperation Treaty
IFW	Image File Wrapper	PMA	President's Management Agenda

S&T	Science and technology	TTAB	Trademark Trial and Appeal Board
SCCRR	Standing Committee on Copyright and Related Rights	U.S.C.	United States Code
SCP	Standing Committee on the Law of Patents	UDRP	Uniform Domain Name Dispute Resolution Policy
SFFAC	Statements of Federal Financial Accounting Concepts	UPR	Utility, Plant, and Reissue
SFFAS	Statements of Federal Financial Accounting Standards	USPTO	United States Patent and Trademark Office
TC	Technology Centers	USTR	United States Trade Representative
TEAS	Trademark Electronic Application System	WCT	WIPO Copyright Treaty
TLT	Trademark Law Treaty	WIPO	World Intellectual Property Organization
TRAM	Trademark Reporting And Monitoring	WPPT	WIPO Performances and Phonograms Treaty
TRIPs	Trade Related Aspects of Intellectual Property	WTO	World Trade Organization

ACKNOWLEDGMENTS

This Performance and Accountability Report was produced with the energies and talents of the USPTO staff. To these individuals we would like to offer our sincerest thanks and acknowledgement.



In particular, we would like to recognize the following organizations and individuals for their contributions:

Office of Corporate Planning – Arpie Balian, Greg Mullen, Walter Lewis, Walter Schlueter and Melissa Stagnaro; Office of Finance - Michelle Picard, Dennis Detar, Shana Dowling, Jeanette Kuendel, Candace Yu, Mariam Hooks, Mark Krieger, Britt Fucito, Kristina Kaminski and Kristin Owens; Office of Public Affairs - Richard Maulsby, Michael Lee, Dennis Forbes and Frankie Cox; Patents - Karen Young and John Mielcarek; Trademarks - Karen Strohecker and Robert Allen, Office of External Affairs – Talis Dzenitis; Office of the CIO - Susan Callis; Office of General Counsel – James Toupin, John Whealan, J. David Sams, Gary Harkcom, Mary Kelly, Merrell Cashion and Mike Briskin; - Office of Administrative Services - A. Benefield; Office of the Director – Norma Rose and Robert Houser; Deva & Associates, P.C., and Grant Thornton LLP.

We would also like to acknowledge the Office of the Inspector General and KPMG LLP for the professional manner in which they conducted the audit of the Fiscal Year 2004 Financial Statements.



We offer special thanks to Bob Shimshock and Frank Sullivan of AOC Solutions, Inc. and to Michael James and Sheri Beauregard of The DesignPond for their outstanding contributions in the design and production of this report.

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UNITED STATES
PATENT AND
TRADEMARK OFFICE

An Agency of the United States Department of Commerce